



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

मंगलवार, 23 अगस्त, 2022 / 01 भाद्रपद, 1944

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, 11th July, 2022

No. Shram (A) 6-2/2020 (Awards) Dharamshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour

Court, Dharmshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/ Order
1.	94/18	Manoj Kumar	M.D. Luminous Power	02-05-2022
2.	87/20	Ravinder Kumar	M.D. M/s Luminous Power	04-05-2022
3.	10/20	Vishal Kumar	Factory Manager M/s Luminous	04-05-2022
4.	46/21	Sandeep Singh	M/S GVK EMRI & others	04-05-2022
5.	549/16	Nidhia Ram	E.E. HPPWD, Chamba	09-05-2022
6.	663/16	Chuni Lal	Chief Conservator of Forest & others.	13-05-2022
7.	662/16	Hira Lal	-do-	13-05-2022
8.	54/18	Ram Lal	D.F.O. Joginder Nagar	13-05-2022
9.	91/21	Amarjeet Kaur	M/s Nayasa Multi plast	14-05-2022
10.	02/19	Bhagat Singh	D.F.O. Suket	23-05-2022
11.	01/19	Gopal Singh	D.F.O. Suket	23-05-2022
12.	45/19	Punni Devi	Headmaster, G.P. School Kandi, Mandi.	23-05-2022
13.	73/18	Murad Baksh	M.D., M/s Horizon Polymers	23-05-2022
14.	58/18	Satish Kumar	-do-	23-05-2022
15.	61/18	Sanjeev Kumar	-do-	23-05-2022
16.	46/18	Bakhshish	-do-	23-05-2022
17.	60/18	Saroop Singh	-do-	23-05-2022
18.	62/18	Sarbjee Singh	-do-	23-05-2022
19.	148/17	Geeta Devi	Employer B.M. Credit Co-Opt Society.	24-05-2022
20.	105/18	Vice President BKKM	Employer, Abbot Group of Company.	24-05-2022
21.	34/20	Vipen Singh	Principal Govt. Medical College, Chamba.	31-05-2022
22.	33/20	Dinesh	-do-	31-05-2022
23.	531/16	Kuldeep Raj	E.E. HPPWD, Killar	31-05-2022
24.	346/16	Guddi	-do-	31-05-2022
25.	168/16	Naini Devi	-do-	31-05-2022
26.	398/16	Man Dei	-do-	31-05-2022

By order,

R.D. DHIMAN, IAS
Addl. Chief Secretary (Lab. & Emp.).

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM- INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 94/2018
Date of Institution : 02.11.2018
Date of Decision : 02.05.2022

Shri Manoj Kumar, President, Luminous Power Technologies Workers Union, Gagret, r/o Village Dilwan, P.O. Diara, Tehsil Amb, District Una, H.P.*Petitioners.*

Versus

The Managing Director, M/s. Luminous Power Technologies, Gagret, Tehsil Amb, District Una (H.P.).*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner(s) : Shri O.P. Chauhan, Ld. Adv.
For the Respondent : Shri Rajiv Kumar Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):—

“Whether action of the management of M/s Luminous Power Technologies Ltd., Gagret Tehsil Amb, District Una, Himachal Pradesh to victimize and transfer Shri Manoj Kumar (President) & other 11 Executive Members/Workers (**As per list enclosed**) in view of formation of Luminous Power Technologies Workers Union (which is under process for registration under the provisions of the Trade Union Act, 1926 in the office of the Registrar Trade Union, Himachal Pradesh) from the Luminous Power Technologies Ltd., Unit-II, Gagret, Tehsil Amb, District Una, Himachal Pradesh to the Luminous Power Technologies Ltd., Hosur, S.N. 150/A & 1B, Gondigurki Road, Nalaganakothapalli, Shoolgiri, Kishangiri, Tamilnadu-635117 vide transfer order dated 25-05-2018 w.e.f. 30-05-2018 and 02-06-2018 for a span of 18 months and further closing the gate of above workers/Executive Members of the union w.e.f. 26-05-2018 amounts to “Unfair Labour Practices” as provided under Section 2(ra) of the Industrial Disputes Act, 1947? If yes, what relief including the cancellation of the transfer orders and other service benefits, the above aggrieved workmen are entitled to from the above management under the provisions of the Industrial Disputes Act, 1947?”

2. The case of the petitioner and 11 others as made out from the statement of claim is to the effect that they were engaged as helpers in between 2007 to 2015 in manufacturing unit Gagret, Tehsil Amb, District Una, H.P. by the respondent and their services were regularized on different dates and on till 01.6.2016 all stood regularized. They were working as Assistant Operators and Operators on regular basis on the date when the dispute arose. They had always discharged their duties to the utmost satisfaction of the respondent and their services were not only recognized but commended by the management. The further case of the petitioners is to the effect that the respondent was not paying the due and admissible financial benefits of its workmen consist of salaries, overtime, and other facilities like, weekly rest, ESI cards, proper transported facility, medical facilities and use of the lead in side the factory was also causing health concerns. In order to discuss these issues and bring them to the notice of the management, the workmen of the unit held a general body meeting on 26.03.2018 and formed their union in the name of ‘*Luminous Powers Technologies Workers Union Gagret, Unit-II, Tehsil Amb, District Una, H.P.*’. The office bearers of the Union were elected under the President-ship of petitioner Manoj. The Union authorized the petitioners to pursue the matter for the registration of the same before Registrar, Trade Union. The petitioners, therefore, drafted the application and submitted the same to labour department on 16.04.2018. The Joint Labour Commissioner on behalf of the Registrar Trade Union

vide his order dated 03.5.2018 directed the Labour Officer, Una to verify and examine the application and relevant documents. As per the petitioners, the moment respondent management received information regarding all these developments, it started threatening the petitioners of their transfer or termination of their services and face the consequence, in case, the Union was not closed. The petitioner being the office bearers of the Union did not succumb to such threatenings and went ahead by holding the meetings Resultantly they were transferred on 25.05.2018 wrongly and illegally to Tamilnadu so that they could not pursue the matter pertaining to the registration of union and also could not highlight the genuine and legitimate demands of the workmen. On 26.05.2018 the respondent locked the gate of the factory for the petitioners and the transfer orders were received in between 02.6.2018 to 10.6.2018. The respondent management displayed its malafide towards the petitioners by not permitted them to enter in the campus and they, therefore, made a complaint to SHO, Police Station Gagret regarding such harassment on 26.05.2018. The respondent management did not stop here but started harassment on caste basis and FIR No.83/2018 under SC/ST Act was lodged by some of the petitioners. At the same time the workers Union through its President and Secretary moved an application to the Labour Commissioner, Himachal Pradesh with the prayer to intervene in the matter and raised demand *vide* notice dated 04.7.2018 for revocation of the transfer and consideration of their genuine demands. Conciliation meetings also took place but with no progress, hence the reference has been made for adjudication to this court. As per the petitioners, the management revoked transfers of Shri Dinesh Kumar and Neeraj Kumar, the petitioners' no.7 and 10, on 16.09.2018 and asked them to join their duties w.e.f. 21.9.2018. Their financial benefits were, however, withheld and undertakings were obtained from them to the effect that they shall not participate in any of the activities of the Union in future. They even approached the Hon'ble High Court of Himachal Pradesh by way of Writ Petition. The petitioners have further pleaded that all such biased activities on behalf of the management amounted to 'unfair labour practices' and the same were meant to suppress the trade union activities and caused victimizing and transferring the office bearers of Union, and therefore, such transfer could not withstand the judicial scrutiny, hence, the transfer orders be declared wrong, illegal and the petitioners be ordered to join the same unit at the same place and benefits of back wages, continuity in service and other benefits be granted to them.

3. The respondent management has resisted and contested the claim on the plea that the reference made by the Government did not fall under the ambit of Section 2-A or Section 2-K of the Act and it could not have been referred for adjudication under the law, hence, the reference was liable to be rejected on this sole ground. The respondent has further come up with the case that it is a renowned international company working worldwide and manufacturing power backup solutions such as UPS, batteries and other solar and electrical applications. The company was in business for past 30 years with 1,44,000 employees working in around 100 countries of the world. The company had a very good reputation worldwide and provided best facilities to its workmen being the best employer in the area. Several facilities like subsidized canteen and transport facility, loan, shoes, uniform, highest rate of statutory bonus, festival celebrations etc. provided to its employees and the welfare of the employees was the top priority of the company. The respondent admitted the fact that the petitioners were its employees and came up with the case that as per Clause 16 of Certified Standing Orders as applicable to the employees coupled with Clause 2 of the letter of appointment of the petitioners, the employees could be transferred from one place to another place. The petitioner and 13 others were transferred only for a short period of 18 months *vide* order dated 25.5.2018 out of whom 12 workers joined at their respective places on transfer. One female and two other workers represented and after accepting their representation their transfer were cancelled and the transfer of the petitioners were made as per the rules and need of the business. The petitioners were counseled by the officers of the company but they refused to accept the transfer letters. They were relieved w.e.f. 26.5.2018 and directed to join the place of their transfer on 2.6.2018, but they did not join as a result of which the work of the company suffered badly. The allegations regarding closing of the gates for them on 26.5.2018 are also denied as incorrect. The

allegations are alleged to be an afterthought to defend their own wrongs as the petitioners were instigating other workers to proceed on illegal strikes and to indulge in illegal activities against the officers of the respondent. It is claimed that the respondent management was not aware of the activities of the workers and formation of union, and moreover, the respondent had no legal right to look into such facts as formation of trade union is the right of the workers and the respondent welcomes such Unions as they are always helpful in taking rational decisions for the betterment of workers. The FIR lodged by some of the petitioners is said to be based on false allegations merely to build a pressure on the company management and cancellation of FIR has been recommended by the police on finding that it had no substance. No demand notice was ever served upon the respondent management. The transfers of two of its employees are said to have been canceled on their requests showing domestic problems. All the allegations are said to be an after thought and the petition is said to be without any merits. It is prayed that the petition be dismissed.

4. The petitioners have filed rejoinder and reaffirmed the averments made in the petition and denied those made in the reply. Some other facts have been clarified in order to supplement the pleadings and several documents are appended with the rejoinder.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 19.02.2019 for determination:—

1. Whether the action of respondent to transfer the petitioners from the Luminous Power Technologies Ltd., Unit-II, Gagret, Tehsil Amb, District Una, H.P. to the Luminous Power Technologies Ltd., Hosur, S.N. 150/1A & 1B, Gondigurki Road, Nalaganakothapalli, Shooligiri, Kishangiri, Tamilnadu-635117 vide transfer order dated 25-05-2018 w.e.f. 30-05-2018 and 02-06-2018 and further closing the gate of members of union w.e.f. 26-05-2018 amounts to “Unfair Labour Practices”, as alleged? ..OPP.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioners are entitled to? ..OPP.
3. Whether the claim petition is not maintainable in the present form, as alleged? ..OPR.
4. Whether the respondent has not issued any termination order, as alleged? ..OPR.
5. Whether the petitioners have not come to this Tribunal with clean hands, as alleged? ..OPR.
6. Whether the reference is not a legal reference, as alleged? ..OPR.

Relief.

6. I have heard learned Counsel for the parties at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	: Yes
Issue No.2	: decided accordingly.
Issue No.3	: No

Issue No.4	: decided accordingly.
Issue No.5	: decided accordingly.
Issue No.6	: Negative
Relief	: Petition is allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUE No.6

8. I will take up this issue firstly for disposal as the respondent company has challenged the legality of the reference itself. The learned counsel appearing for the respondent has argued that this reference made by the Government is bad in itself as it is not in accordance with the provisions of the Act. According to the learned counsel, the reference has been made on the ground of the 'unfair labour practices' and no such reference can be made to the Court under Section 10 (1) of the Act, and at the same time the Court can grant any relief, therefore, this reference is liable to be rejected on the issue of maintainability without even going into merits of the case. The learned Counsel for the petitioner has argued that the court is supposed to answer the reference and cannot go into the question of its correctness or otherwise.

9. It is true that the reference has received from the appropriate Government is with regard to the unfair labour practices and transfer of the petitioners from Una to Hosur, Tamilnadu with a view to victimize them. As per the provisions of the Industrial Disputes Act the 'unfair labour practices' is an offence and the cognizance thereof can be taken by the court. Section 10(1) speaks of certain conditions in which the appropriate Government can refer the matter for adjudication to the Court. The crucial question that arises for consideration is whether the Labour Court or Industrial Tribunal can answer the reference by holding that the same is illegal and not in accordance with the provisions of Section 10(1) of the Act? Such an issue has been dealt with by the Hon'ble Hon'ble High Court of Allahabad in a Writ Petition titled **Devender Kumar and Anr. vs. Presiding Officer & Two others** decided on 18 January 2019 and reported in **2019 (162) FLR Page 5**. It has been held in Para No. 30 and 31 as under:—

[30] In the instant case, the State Government had made the reference and the same had been registered as an adjudication case by the Labour Court. In **National Engineering Industry Ltd. vs. State of Rajasthan** and Ors, 2000 1 SCC 371, it was held:

"27. The Industrial Tribunal is the creation of a statute and it gets jurisdiction on the basis of reference. It cannot go into the question on validity of the reference....." (emphasis supplied)

[31] Once the proceedings had thus arisen before the Labour Court, that court as a court of referred jurisdiction could not have ruled on the validity of the reference made to it. It also could not have refused to answer the reference made on merits. Over and above, the respondent-employer had never set up a challenge to the original reference order dated 20.04.2011 by filing a proper writ petition. Therefore, the Labour Court could not have permitted the respondent-employer to raise that objection before it and in any case, that objection could not have been entertained or allowed. In absence of challenge raised by the respondent-employer, to the amended reference (in a writ proceeding), the Labour Court remained obliged to decide the reference made (to it), on merits only.

10. In the case in hand once reference has been made by the appropriate Government, it is not for this court to examine the issue as to whether it has rightly been made or not. The court

has no choice but to answer the same on the basis of material produced before it by the parties. In case, the respondent management was aggrieved by the reference, it should have assailed it before the Hon'ble High Court of H.P by way of writ jurisdiction and got the same quashed at the very beginning. Once the respondent has chosen to contest the reference and after having participating in full-fledged inquiry/trial into the reference, the respondent cannot now contend that this reference is not in accordance with Section 10 (1) of the Act. The Labour Court or Industrial Tribunal has no jurisdiction to examine the legality of the reference but the Court/Tribunal has to answer the reference in one way or the other. Thus the arguments as raised on behalf of the respondent that the reference is bad on the face of it cannot be entertained by this Court. This Court has no jurisdiction to hold that this reference is not in accordance with law. The jurisdiction of this Court lies in answering the same as per the material produced by the parties and in accordance with the provisions of the Act. The issue No. 6 is, therefore, held in negative and against the respondent.

ISSUE NO. 1

11. The Learned counsel appearing for the petitioners has argued that there is ample material on the record to prove that the respondent management was not providing basic facilities to the workmen in the Unit-II, and therefore, the petitioner no.1 and others formed an Union, held the meetings and processed the documentation to cause their Union registered in accordance with law. He has further argued that there is sufficient material on the record to prove that when the management came to know about the formation of Union, the petitioners were threatened of their termination or transfer, in case, they did give up their activities and when the petitioners held the meetings one after one, they were transferred without their being any public interest, with the sole motive of preventing them to fight for the cause of the workmen. According to the learned counsel for the petitioners the malafides and the biased outlook on the part of the respondent management are evident from their act and conduct and the onus is upon the respondent to prove that the transfers was not actuated by malice or malafide but it was infact bonafide exercise. The learned counsel has also argued that the petitioners are resident of Una, H.P and posting them at a place 2500 kilometers away from their homes was not their interest as they were to face the language problem as well.

12. On the other hand, the Learned Counsel for the respondent has argued that the respondent company is having its units worldwide and it is providing best possible facilities to its workmen, and the petitioners had been creating the atmosphere in the company to ruin its reputation at the behest of outsiders. The Learned counsel further argued that the appointment letters and the standing orders specifically provide for transfer of the workmen from one unit to another unit in the country and since the petitioners had accepted the terms and conditions at the time of their appointment they could not now turn around and contend that they have wrongly been transferred. He further argued that the transfer of the petitioners has taken place in the public interest as the unit situated at Hosur, Tamilnadu was being set up and therefore not only the petitioners but 13 other workers were transferred and those workmen joined their duties, whereas, the petitioners made excuses to avoid the transfers. According to him, the bonafides of the respondent management are clear from its conduct in not terminating the services of the petitioners for not joining their duties at the place to which they were transferred, and the claim, as per him, is false and no ground of any cancellation of the transfer is made out, hence the claim be rejected.

13. Before coming to the factual dispute in this case, few admitted facts need a mention so that the controversy can be narrowed down to large extent. It is an admitted fact that the job of the petitioners is a transferable job. The petitioners have not disputed this fact anywhere. The copy of the Certified Standing Orders of the company has been tendered as Ext. RW1/B. Clause 16 of the aforesaid standing Orders speaks of transfer of the employees. Ext. RW1/F consisting of 235 pages includes the appointment letter of the petitioners apart from other documents. All these

appointment letter of the petitioners contain clause 2 which deal with the transfers. The petitioners have accepted the appointment and thus they have accepted the terms and conditions. Thus it is an admitted fact that the job of the petitioners is transferable. They could have been transferred from one place to another.

14. It is settled law that in a transferable post an order of transfer is a normal consequence and transfer is neither punishment nor victimization unless the transferred workman is able to show that transfer was actuated by malafide; was for ulterior motive and it was not in the exigency of the administration. The initial onus is upon the employee, and once he is able to discharge the same by producing prima-facie material to prove the malafides and ulterior motives behind the transfer on the part of the employer, the onus is immediately shifted to the employer to prove by leading evidence that the transfer was in the exigency of administration and there was no hidden agenda behind the same.

15. The petitioners herein have specifically pleaded that the employees of the company were being deprived of some basic facilities to which they were entitled to under the labour laws and after having a general body meeting of the workers a Union was formed and they were elected as members of the Union on 26.03.2018. They have also pleaded that they applied for the registration of the Union and the verification of the papers and other details were ordered in the month of April and beginning of May. The petitioners have tendered on the record an application for the registration of the Union submitted to Registrar Trade Union Ext. PW1/C. This document has been tendered by PW 1 Sh. Manoj Kumar. This application was received by the Labour department on 16.04.2018. It is clear from this document that all the 12 petitioners were authorized to move the application. Ext. PW1/D is another letter from Registrar Trade Union to Labour Officer Una regarding verification of the proposed Trade Union and removal of certain objections in the application. Copy of this letter was also forwarded to the General Secretary of the proposed Union. This letter was dispatched on 3 May 2018 as is clear from the seal thereon. It is clear from the perusal of this letter that it is not a 'confidential letter' seeking some confidential inquiry. It is an open letter and verification of the proposed Trade Union has been sought. When the proposed Trade Union was being formed in the respondent Unit by its employee and certain verification were to be done, it is but natural that the labour Officer shall ask the respondent management about the fact whether the proposed members of the Union were the employees of the respondent working in the Unit or not. Unless the labour officer ask the management about the identity of the proposed members of the Union, no verification is possible. In such a situation, the respondent management can not remain ignorant of the fact that its employees have approached the Registrar of the Trade Union for registration of the trade union. The respondent has come up with the plea that the management was not aware of any such development till 04.07.2018. Such a fact has been mentioned in the reply to the demand notice Ext. RW1/E. There is one application dated 13.05.2018 Mark P-11 on the record which was moved to the management by the workers of the company highlighting the health issues being faced by the workers for want of safety measures in the factory. Though this document has not been exhibited yet there is no cross-examination conducted on PW1 Manoj Kumar to doubt the genuineness of this document. This letter is signed not only by Sh. Manoj Kumar but by some of other petitioners as well. This letter finds specific mention of the proposed Trade Union. It is not the case of the respondent that no such communication was ever received by its management. The contents of this document reveal that the proposed Trade Union was also in existence on the aforesaid date. In the wake of the aforesaid facts and circumstances, the case of the respondent that its management was not aware of any such activity in the campus cannot be accepted.

16. When the evidence led on the record is carefully examined, it becomes clear that not only PW1 Sh. Manoj Kumar but PW2, Sh. Jasbir Singh, PW3, Sh. Lekh Raj, PW4, Sh. Sucha Ram, PW5, Sh. Sandeep Kumar and PW6 Sh. Lovedeep Kumar have specifically stated on oath in

their affidavits Ext. PW1/A, PW2/A, PW3/A, PW4/A, PW5/A and PW6/A in Para's No. 3 to 5 about the problems faced by the workers of the company, convening of the General Body meeting on 26.03.2018, election of the Office Bearers of the proposed Union, documentation regarding the registration of the Union and the verification of the same by the concerned departments before 03.05.2018. There is no cross-examination on any of the aforesaid witnesses to the effect that the management of the respondent company was not aware of all these developments. A fact which is not challenged by way of cross-examination is presumed to have been admitted by the party against whom the same has been spoken. The witnesses should have been subjected to searching cross-examination on these facts so that it could be proved that the management was not actually in know of these facts. When this is the position, statement of the Sh. Abhinav Kumar (RW1) in para 14 of his affidavit Ext. RW1/A that the respondent was not aware of any of such activities of workers regarding the formation of the Union, cannot be relied upon. It is thus established from the aforesaid material that the management of the respondent was well aware of the fact that a Union was being formed and all the petitioners were playing lead role in the same being its office bearers. It is also proved that all these facts were in the knowledge of the respondent management well before the date of impugned transfer.

17. The petitioners have specifically pleaded in the petition that as soon as the management of the respondent company came to know about the fact that the Union was being formed by its workers, they started threatening the petitioners that they shall either be transferred or terminated in case they proceed further with such activities and they should either close the Union or face the consequence. They have further pleaded that being the Office bearers of the Union they proceeded further with the meetings and were thus transferred vide orders date 25.05.2018 with a view to victimize them. Such facts are pleaded in Para 6 of the petition. All the witnesses PW1 to PW6 swore their affidavits in evidence and these allegations were replicated by them in Para No. 5 of their affidavits. There is no denial of these crucial facts in the cross-examination of these witnesses. Not even a single question has been put to them in order to probe as to when and how they were threatened and by whom. The testimonies of these witnesses are not tested by the effective tool of cross-examination so that their credibility could be impeached. This evidence has been left unchallenged and unrebutted. There are not even bare suggestions to them to the effect that they were neither threatened of their transfer nor of termination, in case, the Union activities were not stopped by them. This unrebutted and unchallenged evidence having its foundation in the pleadings can not be ignored by the court. The affidavit of RW 1, Sh. Abhinav Kumar (RW1/A) does not find even a single line spoken on oath to the effect that the petitioners were neither threatened nor compelled to close the activities of the Union as alleged by them in the petition and evidence. Thus the evidence led by the petitioners regarding the threatenings extended to them by the management either to transfer or terminate them, in case, the activities are not stopped has gone absolutely unrebutted and unchallenged and and it is proved that the petitioners were being threatened to be transferred or terminated before the transfer actually took place.

18. The respondent management has tried to make out a case in defence that the petitioners were trying to stall their transfer by approaching the Labour office with the prayer for registration of the Union. The contents of reply to the demand notice Ext. RW1/E are very relevant. It is mentioned in Para No. 2 of the same that ever since January 2018, the management had been informing some of the skilled worker to be deputed at Hosur for smooth expansion and ramp up of the plant and it appears that those workers who were apprehending their transfer conceived a device to form a Union to stall the transfers. It may be stated here that this case was not even pleaded in the reply and no evidence was led to this effect. No document has been placed on the record to show that any correspondence took place between the management or the workmen in the January 2018 apprising them of their proposed transfer in near future. No document has been placed on the record to show that any meeting of the management has taken place before January 2018 to discuss the proposal to transfer few of the workers to Hosur. In the absence of any such evidence to this

effect, the plea of the respondent as taken in the reply aforesaid is not even remotely established. It is not proved that the company was working on any such project of transferring some of its workmen to Hosur three four months prior to the actual transfer order and this idea was shared with the workmen.

19. Thus for the aforesaid discussion, the petitioners have discharged the initial onus to prove that after the General body meeting of the workmen of the Unit, they processed the matter for the registration of their Union and as soon as the respondent management came to know about this fact, they (petitioners) were threatened of their transfer or termination in case they pursued the matter any further. They have also able to show that as they continued the meetings of the proposed Union and ignored the threatening extended to them, they all were transferred from Una H.P. to Hosur, Tamilnadu on the pretext of setting up a new industry for a span of 18 months so that they could not pursue the matter regarding the registration of the Union.

20. The onus has now shifted to the respondent management to prove that transfer of the petitioners was in the public interest and no malafide was involved in the same. The respondent have come with the plea that not only the petitioners but 13 others employees were also transferred to different stations and 12 have joined at the place of their transfer. The petitioners have denied this fact and during the cross-examination, they pleaded ignorance to such a fact. Since the bonafides have to be established by the respondent, it was for the respondent to place on the record the transfer orders of those other workmen, who are claimed to be similarly situated and who are said to have joined at the place of their transfer without any murmur. The pleadings reveal that even the names of the stations to which those workers were also transferred have not been given. No transfer orders of those other workmen has been filed on the record to let the court examine the same. No joining report of those workmen has been placed to the record. So much so, no list showing their names has been filed and proved on the record. As aforesaid, the petitioner have denied such facts. Thus it was for the respondent to have explained everything. Since everything pertaining to those other 13 workmen has been concealed from this court, the presumption goes that either no such workmen were transferred or their transfers have been made to the nearby stations with a view to make a case for transfer of the petitioners to Tamilnadu which is a far of place from H.P. The respondent management has thus failed to prove its bonafides for the aforementioned reasons.

21. Setting up a new industrial unit requires lots of acts to be done before the unit becomes functional. The respondent claims that its business is spreading in more than 100 countries worldwide. In a company of such a repute everything is done in a planned manner. Meetings of the management take place in intervals and every proceeding is available in black and white. The proceedings with respect to the starting of the Unit at Hosur must also be in writing which could include several rounds of meetings to plan the phase-wise set up. There must be complete details available with the company as to how much workers shall be posted in the Unit and from where they shall be deputed. What shall be ratio of skilled and unskilled workmen and from which of the already working unit the experienced workmen shall be shifted? What shall be the ratio of workmen to be shifted from several units? How many workmen shall be shifted from Amb, Una Unit? All these things must have been planned months ago by the management before the actual shifting of the workmen. Setting up a new unit and making it functional is not the handiwork of one Officer but several Officers of the company management are involved, who hold several meetings to discuss the strategy. Demands of the workmen are to be made from the already working units. In nutshell, lots of planning and paper work is involved before deploying the workers in such a newly established unit. It is not the overnight exercise to ask few workmen to join the newly established unit. In the case in hand also the plannings must have begun months ago followed by several rounds of the meetings of the management and several documents must have been signed in such meetings towards the final decision. No such document has been filed and proved on the record by

the management to apprise this court that the decision to transfer the petitioners was not taken overnight but things were discussed for months together before such transfers actually took place. No project report, no demand of workmen, no resolution passed by the management towards the shifting of the workers to the newly established unit has been filed on the record to show the bonafides of the management. Since there are allegations of malafide against the respondent in transferring the petitioners overnight to a place around 2500 km away from Una, these allegations could have been met by filing the aforesaid documents so that the court could infer that the decision for transfer of the petitioner was not taken overnight but there was a complete plan with the respondent and the management had been working over the same for months together. An adverse inference is therefore, liable to be drawn against the respondent to the effect that the decision to transfer the petitioners was taken overnight by one person, who signed the transfer letters and it was done simply in order to prevent the petitioners from registering their Union and raising the genuine issues of the workmen through such a recognized body. Had it been not so, the respondent would have produced several documents for the perusal of the court involving proper planning to establish the new unit and must have proved its bonafides. This fact also strengthens the allegations levelled by the petitioners.

22. The malafides on the part of the respondent management are clearly visible from the documents filed and proved on the record. Few transfer orders of the petitioners have been tendered on the record as Ext. PW1/E (transfer order of Sh. Manoj Kumar), Ext. PW3/B (Lekh Raj), Ext. PW4/C (Sucha Ram), and Ext. PW5/C (Sandeep Kumar). All such orders are also part of Ext. RW1/F. Careful perusal of these transfer orders show that they were prepared on 25.05.2018, tendered to the petitioner on the same and when they refused to receive the same, these orders were dispatched through post. The petitioners have alleged that on 26.05.2018, the gates of the factory were closed for them and they were not permitted to enter. The petitioners have moved complaints to the police complaining that they were not been permitted to enter the factory premises. The copies of the complaints have been tendered by them on the Ext. PW1/F, PW2/B, PW3/C, PW4/D, PW5/C and PW6/C. There is no denial of these facts in the cross-examination of these witnesses. Sh. Abhinav Kumar (RW1) has tried to make out a case in his affidavit Ext. RW1/A that the gates of the factory were not closed for the petitioners on the next day of their transfer. The contents of the reply Ext. RW1/D are very relevant on this point and falsifies the contents of the affidavit. It has been mentioned by the management at page 2 of this document that the question of transferred employees in entering the plant on 26.05.2018 did not arise since they ceased to be the employees of the plant at Una. Thus it is proved from the reply of the respondent management that the gates of the plants were closed for the petitioners on the next day. The background of the petitioners needs to be highlighted before coming to the point involved. The appointment letters of the petitioners tendered on the record show that they were getting the monthly salary below Rs. 7000/- out of which they have to meet their all the expanses of the month. The distance between Chandigarh and Chennai is more that 2400 kms. The distance between Chandigarh and Una is around 100 kms. Thus the petitioners have been transferred to a place which is around 2500 kms (by road) from Una. The contents of the transfer order have been purposely used to show the bonafides, but the reality is proved to be otherwise. It has been mentioned in the very first line of the transfer order that there have been discussion with him earlier regarding the expansions in the Hosur plant Tamilnadu and the efficient and experienced services of the petitioner were required. When did such discussions took place earlier? There are neither pleadings nor evidence on the record. No letter vide which the petitioners were called to have a meeting informing them the place and time of the meeting with the management on this issue has been placed on the record. No officer of the respondent management has been examined to depose about the fact that he had a meeting forehand to motivate and encourage the petitioners for the new assignment. The contents of Para No. 7 of the reply filed by the respondent have a different tale to tell. It has been mentioned that the petitioners after going through the contents of the transfer letter refused to accept the same and they were counseled by the Officers of the company for this. Thus

the reply speaks of the counselling done on 25.05.2018 itself when the petitioners were taken by surprise when transfer letters were handed over to them. There are neither pleadings nor evidence on the record to the effect that the matter of proposed transfers was discussed with the petitioners beforehand so that they could prepare themselves and make their necessary arrangements to move more than 2000 km away from their place of residence. It is proved that the petitioners were taken by surprise on 25.05.2018 when the transfers letter were handed over to them with the directions that they should report at new place of posting on 02.06.2018. The contents of the transfer letter to show their bonafides by the management to the effect that there were discussions with the workers beforehand regarding their proposed transfer are proved to be false.

23. The sympathetic and affectionate gestures shown towards the petitioners through the language employed in the transfer orders by the respondent management are further exposed by the material on the record. It has been mentioned in the transfer orders that the salary of the petitioners shall be increased by four thousands and they shall be paid the expenses to shift their families to Hosur and the shifting charges as per the rules. It has been specifically been mentioned in Para 3 of the transfer order that in order to seek any help or assistance they may contact the human resources department. The petitioners are proved to have been taken by surprise on 25.05.2018 when the transfer orders were handed over to them. It has also been proved that on 26.05.2018 the gates of the plant were closed for them and they were prevented from entering in the plant/unit at all. How could they have sought the assistance of the human resources department of the company for any help without entering in the campus? The intentions of the management are writ large from such a conduct. The transfer letter shows the caring attitude of the company whereas, the actions are contrary. The transfer letters were handed over to the petitioners in the evening all of sudden and they were disowned on the next morning as is clear from the language of the Reply Ext. RW1/D at page 2. It has specifically been said that on the next day of the transfer the petitioners have ceased to be employees of the Plant at Una. How could they have sought the help from the human resources department then? It is thus very much clear that the intentions of the respondent were to harass the petitioners and bring them to their knees by transferring them to a distance of more than 2000 kms all of sudden without prior notice and then asking them to join the new place of posting within 6 days without seeking any help from the human recourse department of the company and without making any financial arrangement for them fully knowing that they were hand to mouth workers getting meager salaries of less than seven thousands per month. The respondent management still expected them to shift their families and luggage's within a short span of six days out of which more than three days were supposed to be spent on travelling, and join on 02.06.2018 at Hosur. This is humanly impossible.

24. Virtually the petitioners were left with less three days out of the six days to arrange their reservations in the Railway for the whole families, which too was altogether an impossible task as no reservations can be had within such a short time. The petitioners had to obtain the school leaving certificates of their children and motivate them to leave their houses and travel to a place more than 2000 kms where they were to face the language problems. Suppose they were able to manage such arrangements, where the families and the house holds articles were to be kept unless a house was taken on rent. What was the rent prevalent in the area? Nothing was known to the petitioners. A task which was humanly impossible was given to them and the doors of the management were shut overnight. In such a situation, the petitioners had no other choice but to quit the job. This is a clear cut case of unfair labour practices.

25. The respondent has come up with the case throughout that the transfer was in accordance with the clause 16 of the Central Standing Orders of the company. When the material on the record is carefully examined, it becomes clear that the provision of clause 16 of the aforesaid standing order has also been ignored while the transfer orders were issued. Clause 16 of the aforementioned standing order provides that in case the transfer involved is from one station to

another station two requirement shall be followed by the management. Firstly, reasonable notice shall be given to such workman before making the transfer. The purpose for proviso clause is that since the workman has meager income, therefore, in case he is cautioned before hand that he shall be transferred to another station, he will at least arrange the funds involved in such an exercise. At the same time, he shall make arrangement for his family members and take a timely decision regarding their movement with him. He may settle his family properly in the meantime. This clause is thus not a bare formality but has been introduced in the welfare of the workman sought to be transferred. The compliance of the same is mandatory. In the case in hand, there is no compliance of this mandatory clause by the management of the respondent company. No document showing that the reasonable notice was given to the petitioners before their transfer actually took place so that they could make the necessary arrangements on time. They were taken by the surprise when the transfer order was handed over to them on 25.05.2018. Even the reasonable joining time was not given to them. The transfer order was handed over to them on 25.05.2018 and from 26.05.2018 joining time was given to them till 01.06.2018 with the directions to join their duties on 02.06.2018 at 9 A.M at Hosur. Thus six days joining time was given to them. As aforesaid the distance between the two stations is more than 2000 km and has to be covered by travelling in the train for not more than three days. The actual joining times thus comes to rest of the three days. The railways tickets are not available within 3 days for such a long journey even on tatkal booking. Whether the petitioners could have packed their bags and baggage during these three days time? Could they have travelled with their children within such a short period? Could they have arranged the funds within such a shortest span? It has to be remembered that the petitioners are poor workmen getting the salary of less than seven thousands and were not the highly paid executives of the company, and could not have arranged the air tickets. Thus there is complete violation of the provision contained in clause 16 of the Standing orders and there is no explanation whatsoever for the same. In such a hostile and compelling circumstances, the petitioners had no choice but to give up their jobs. The malafide on the part of the respondent management is proved from the evidence led by it. The petitioners have been able to prove that respondent has indulged in unfair labour practices either to shunt out them from the job or make them succumb to the demands of the management. It is also proved that the gates of the plant were closed for the petitioners on 26.05.2018 and they were prevented even to approach the HR of the company to seek some help in accordance to the intentions exhibited in the transfer orders.

26. The petitioners have led the evidence regarding the FIR Under SC&St Act lodged subsequently. Since the transfer orders were already passed, such FIR is not relevant to decide the question involved. The respondents have tendered on the record several letters asking the petitioners to comply the transfer orders. This correspondence at the most prove that the respondent kept on persuading the petitioners to join at Hosur without taking concrete steps to resolve the issue. There is not even a single documents on the record which would show that management had taken concrete steps to patch up the differences and bring harmony in the relationships with the workmen by calling them for a meeting to resolve the issues by way of negotiations. The petitioners have come up with the case that transfer of three of its employees were cancelled by the respondent and undertaking was obtained from them. This fact has no bearing on the controversy involved and does not require much discussion. The question is with respect to the malafide on the part of the respondent management, which has been elaborately examined by this court.

27. Thus as a result of the discussion made hereinabove on every aspect of the matter it is established that the transfer orders dated 25.05.2018 are the malafide act of the respondent to pressurize the petitioners to not to pursue the matter regarding the formation and registration of the worker Union. The transfer of all the office bearers of the proposed Union to a place more than 2000 kms away from the place they were working is nothing but an attempt to prevent them from forming the Union and bring forth the issues of the workmen for their redressal. Closing the gate of

the factory on the next day of the transfer order is also an act to increase the pressure upon them to act in accordance to the wishes of the management and such acts amounts to Unfair Labour practices. Issue No. 1 is thus held in favour of the petitioners.

ISSUE NO. 2

28. The next question that arises for consideration is as to what relief the petitioners are entitled to apart from the cancellation of the transfer order? It is settled law that the court cannot travel beyond the scope of reference and, therefore, the language of the reference is very material to answer the same. Since the transfer orders dated 25.05.2018 are proved to be malafide act of the respondent as already held hereinabove, the same are therefore, liable to be cancelled. The petitioners could not work on account of the malafide action of the respondent and for the reasons that the gate of the factory was closed for them despite of the fact that they wanted to work. The petitioners shall therefore, be treated in continuity of services w.e.f. 26.05.2018 to the period of 18 months, as the transfer orders were only for 18 months and would have ceased to operate thereafter. Since the petitioners are the regular employees of the respondent, it was for the respondent management to pass the appropriate orders with respect to the services conditions of the petitioners on completion of 18 months. The reference is confined to the period of 18 months and this court has to answer the same accordingly. It is held that the period of 18 months w.e.f. 26.05.2018 shall be treated in continuity in service for the petitioners and they shall be entitled for all the service benefits including the salary for the aforesaid period in the same manner as if they have not been transferred and were working at the same place in continuity. The period after the aforesaid 18 months is not covered by the reference and no adjudication can be had by the court for the dispute, if any, arising after the period of 18 months till the date of this decision, as the petitioners are regular employees of the respondent and they have neither been terminated nor any inquiry has been initiated against them. Issue No. 2 is decided accordingly.

ISSUE NO. 3

29. In view of the findings of the above issues, the petition is held maintainable hence, this issue is decided in favour of the petitioners and against the respondent.

ISSUE NO. 4

30. This issue does not arise for determination of the pleadings of the parties and has inadvertently framed, hence no findings are required on the same, hence this issue is decided accordingly.

ISSUE NO. 5

31. For the detailed discussion already made while deciding issue nos. 1 and 2, it is held that it is the respondent management who has not come to the Court with clean hands and the petitioners are proved to have come to the court with clean hands, hence this issue too is decided accordingly.

RELIEF

32. In view of my discussion on the above issues, the claim petition succeeds and is allowed. The transfer of the petitioners is cancelled being a malafide act of the respondent with a view to pressurize them not to pursue the matter regarding formation and registration of the trade union which they were in the process of registration. The petitioners shall be treated in continuity in service w.e.f. 26.05.2018 for next 18 months and they shall be entitled for all services benefits

including salary for the above-said period in the same manner as if they have worked at the same station and no dispute has arisen at all. The reference is confined to the period of 18 months and there can not be any adjudication in this reference regarding the position that existed on the expiry of 18 months counted w.e.f. 26.05.2018, as the petitioners are regular employees of the respondent and they are governed by the R&P Rules of the respondent company. The petitioners namely S/Shri Dinesh Kumar and Neeraj Kumar i.e. petitioners no.7 and 10 shall be entitled for the financial benefits for the period during which they remained out of the work before they were recalled after cancellation of their transfer orders. Parties are left to bear their costs.

33. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 02nd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No.	: 87/2020
Date of Institution	: 11.09.2020
Date of Decision	: 04.05.2022

Shri Ravinder Kumar s/o Shri Chuni Lal, r/o Village Narangadi, P.O. Dugli, Tehsil Churah,
District Chamba (H.P.) ...Petitioner.

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-IV,
Gagret, Tehsil Amb, District Una (H.P.)

Digitally signed by HANSRAJ
Date: 2022.05.04

14:57:49 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner	: None for the petitioner
For the Respondent	: Sh. Rajat Chaudhary, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).:—

“Whether the termination of services of Shri Ravinder Kumar s/o Shri Chuni Lal, r/o Village Narangadi, P.O. Dugli, Tehsil Churah, District Chamba, H.P. by the Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-IV, Gagret, Tehsil Amb, District Una (H.P.) w.e.f. 17.05.2019 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer?”

2. The parties to the reference were summoned and the petitioner initially put his presence and sought time to file the statement of claim but later on he absented himself and his counsel also did not put his appearance, therefore, he was ordered to be hear exparte. Since this court was dealing with a reference made by the appropriate Government, therefore, it is the duty of the court to answer the same irrespective of the fact whether the parties pursue the same or not.

3. It is in this background the present reference is answered as under.

4. It is the basic principle of civil law that anything pleaded by the parties has to be proved by way of pleadings as well as leading evidence and only then the same can be read by the court in order to grant or refuse the claim. In case pleadings and evidence are not on the record, then the reference is meaningless. As aforesaid, the petitioner never appeared before this Court despite of due notice and opportunity granted to him time and again to file statement of claim. The petitioner has thus failed to prove that he was terminated in violation to the provisions of the Act. When all these facts have not been established by the petitioner, the respondent was not duty bound to lead evidence as the petitioner has to stand on his own legs. Unless, the petitioner proves his case prima-facie, the onus does not shifted upon the respondent. As aforesaid, the petitioner has not filed any statement of claim as well as no evidence in this regard has been led by the petitioner in support of his case which makes this court to presume that he is feeling no more aggrieved by the alleged acts of the respondent. It appears that the petitioner is no more interested either in continuing with the work he was earlier doing or in obtaining the compensation or other benefits which are permissible under law. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

7. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 04th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 10/2020
Date of Institution : 21.01.2020
Date of Decision : 04.05.2022

Shri Vishal Kumar s/o Shri Pawan, r/o V.P.O. Gagret, Mubarkpur Road, Ward No.6, Tehsil Ghanari, District Una (H.P.) ...*Petitioner.*

Versus

The Factory Manager, M/s Luminous Power Technologies Private Limited, Unit-IV, Gagret, Tehsil Amb, District Una (H.P.) ...*Respondent.*

Digitally signed by HANSRAJ

Date: 2022.05.04

14:58:29 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner	: None for the petitioner
For the Respondent	: Sh. Rajat Chaudhary, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Vishal Kumar s/o Shri Pawan, r/o V.P.O. Gagret, Mubarakpur Road, Ward No.6, Tehsil Ghanari, District Una, H.P. by the Factory Manager, M/S Luminous Power Technologies Private Limited, Unit-IV, Gagret, Tehsil Amb, District Una, H.P. w.e.f. 05-03-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employer/management?”

2. The parties to the reference were summoned and the petitioner initially put his presence and sought time to file the statement of claim but later on he absented himself and his counsel also did not put his appearance, therefore, he was ordered to be heard ex parte. Since this court was dealing with a reference made by the appropriate Government, therefore, it is the duty of the court to answer the same irrespective of the fact whether the parties pursue the same or not.

3. It is in this background the present reference is answered as under.

4. It is the basic principle of civil law that anything pleaded by the parties has to be proved by way of pleadings as well as leading evidence and only then the same can be read by the court in order to grant or refuse the claim. In case pleadings and evidence are not on the record, then the reference is meaningless. As aforesaid, the petitioner never appeared before this Court despite of due notice and opportunity granted to him time and again to file statement of claim. The petitioner has thus failed to prove that he was terminated in violation to the provisions of the Act. When all these facts have not been established by the petitioner, the respondent was not duty bound to lead evidence as the petitioner has to stand on his own legs. Unless, the petitioner proves his case prima-facie, the onus does not shift upon the respondent. As aforesaid, the petitioner has not filed any statement of claim as well as no evidence in this regard has been led by the petitioner in support of his case which makes this court to presume that he is feeling no more aggrieved by the alleged acts of the respondent. It appears that the petitioner is no more interested either in

continuing with the work he was earlier doing or in obtaining the compensation or other benefits which are permissible under law. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

5. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 04th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No.	: 46/2021
Date of Institution	: 12.03.2021
Date of Decision	: 04.05.2022

Shri Sandeep Singh s/o Shri Viresh Kumar, r/o V.P.O. Dahab, Tehsil Fatehpur, District Kangra (H.P.) ...Petitioner.

Versus

The Employer/Management, M/S GVK Emergency Management and Research Institute, Village Dharampur, Shimla-Chandigarh Highway, District Solan (H.P.) ...Respondent.

Digitally signed by HANSRAJ
Date: 2022.05.04

14:58:09 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner	: None for the petitioner
For the Respondent	: Sh. Rajat Chaudhary, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the verbal termination of services of Shri Sandeep Singh s/o Shri Viresh Kumar, r/o V.P.O. Dahab, Tehsil Fatehpur, District Kangra, H.P. by the Employer/ Management, M/S GVK Emergency Management Research Institute, Village Dharampur, Shimla-Chandigarh Highway, District Solan, H.P. w.e.f. 04-04-2019 without complying with the

provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?"

2. The parties to the reference were summoned and the petitioner initially put his presence and sought time to file the statement of claim but later on he absented himself and his counsel also did not put his appearance, therefore, he was ordered to be heard ex parte. Since this court was dealing with a reference made by the appropriate Government, therefore, it is the duty of the court to answer the same irrespective of the fact whether the parties pursue the same or not.

3. It is in this background the present reference is answered as under.

4. It is the basic principle of civil law that anything pleaded by the parties has to be proved by way of pleadings as well as leading evidence and only then the same can be read by the court in order to grant or refuse the claim. In case pleadings and evidence are not on the record, then the reference is meaningless. As aforesaid, the petitioner never appeared before this Court despite of due notice and opportunity granted to him time and again to file statement of claim. The petitioner has thus failed to prove that he was terminated in violation to the provisions of the Act. When all these facts have not been established by the petitioner, the respondent was not duty bound to lead evidence as the petitioner has to stand on his own legs. Unless, the petitioner proves his case prima-facie, the onus does not shift upon the respondent. As aforesaid, the petitioner has not filed any statement of claim as well as no evidence in this regard has been led by the petitioner in support of his case which makes this court to presume that he is feeling no more aggrieved by the alleged acts of the respondent. It appears that the petitioner is no more interested either in continuing with the work he was earlier doing or in obtaining the compensation or other benefits which are permissible under law. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

5. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 04th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref No.	: 549/2016
Date of Institution	: 23.08.2016
Date of Decision	: 09.05.2022

Shri Nidhia Ram s/o late Shri Kishnu (Krishan), r/o Village Baliyara, P.O. Palhuein, Tehsil & District Chamba (H.P.) ...Petitioner.

Versus

The Executive Engineer, H.P.P.W.D. Division Chamba District Chamba, H.P.

..Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ

Date: 2022.05.09

13:00:30 IST

For the Petitioner : Shri T.R. Bhardwaj, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Shri Nidhia Ram s/o late Shri Kishnu (Krishan), r/o Village Baliyara, P.O. Palhuein, Tehsil & District Chamba, H.P. during 08/2001 by the Executive Engineer, HP. PWD. Division Chamba, District Chamba, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by workman, is legal and justified; whereas he has raised the industrial dispute vide demand notice dated 20/11/2014 after lapse of more than 12 years. If not, keeping in view of working period of 254, 305.5, 280, 238.5, 246.5, 257, 242 and 194 days during years 1994, 1995, 1996, 1997, 1998, 1999, 2000 and 2001 respectively and delay of more than 12 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner has averred in his statement of claim that he was engaged as a daily waged Mason on muster roll basis during the year 1994 by the respondent and he worked in the aforesaid capacity till August, 2001 when his services were intentionally interrupted by the respondent by giving artificial breaks to deprive him from completing 240 working days in each calendar year so that he could be deprived of the benefit of regularization. In May, 2001 the petitioner had fallen ill and remained under treatment as a result of which he could not work for the whole month. He also could not report to work in September 2001 on account of illness and submitted his intimation regarding illness in September, 2001. After his recovery he submitted his joining report in January, 2002 but he was not re-engaged by the respondent despite several oral and written requests. No muster roll was issued to him and a new person was engaged in his place, who was doing private work in the house of one of the officer of the department. The petitioner kept on representing the respondent time and again and his requests were put off on one or other ground and the letters were tossed from one office to another office. He even issued a legal notice and represented in the year 2013 to the respondent and his personal hearing also took place but nothing favourable was done. When the petitioner felt that he shall not be reinstated, he raised the demand to labour office in the year 2014 and during the conciliation proceedings the respondent did not agree to re-engage him and in this manner the present reference came to be made to this court for adjudication. The petitioner has submitted that he had worked for more than 240 days in each calendar year w.e.f. 1994 to 2001 and his services were terminated by retaining his juniors and the principle of 'last come first go' was violated. New workmen are also said to have been engaged and thus there is violation of Sections 25-F, 25-G and 25-H of the Act by the respondent. On such averments, the petitioner has prayed that for his reinstatement be ordered with all consequential benefits. He has also prayed for his regularization as per the policy.

3. The respondent has resisted and contested the claim on the plea of maintainability and delay and latches. On merits, it is submitted that the petitioner was initially engaged during the month of February, 1994 and he worked intermittently upto April, 2001 with breaks in the year 1997 and 2001. He is said to have worked for 238.5 days in 1997 and 194 days in 2001 and thereafter left the job on his own account without any intimation. No intimation regarding the alleged illness was given by the petitioner in September, 2001 as claimed and no medical certificate was submitted in January, 2002. Similarly no joining report was submitted. The petitioner has made the representation in September, 2013 and submitted the medical certificate issued by the private Doctor namely Shri Surinder Kumar Sharma for a period of 06 days w.e.f. 25.12.1997 to 31.12.1997 and for 61 days w.e.f. 1.11.2001 to 31.12.2001. The petitioner is claimed to have raised the dispute after more than 12 years and it suffers from delay and latches. No person was engaged by the respondent after the petitioner left the job and allegations to this effect are said to be wrong. Letters from Superintending Engineer dated 01.8.2008 and 14.6.2009 are admitted to have been received and letters dated 09.9.2013 and 07.10.2013 are also said to have been received. It is submitted that the petitioner infact did not approach the respondent after August, 2001 till August, 2008 and he remained absent without any cause. It is submitted that the respondent has not violated the provisions of Sections 25-F, 25-G and 25-H of the Act and hence the petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the petition and denied those made by the respondent in the reply.

5. From the pleadings of the parties and keeping in mind the language of the reference received, following issues were framed on 10.01.2018 for determination:—

1. Whether termination of the services of petitioner by the respondent during August, 2001 is/was improper and unjustified as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? ...*OPR*.
4. Whether the claim petition is bad on account of delay and latches on the part of petitioner as alleged? ...*OPR*.

Relief.

6. I have heard learned counsel for the parties at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	: Yes
Issue No.2	: decided accordingly
Issue No.3	: No
Issue No.4	: decided accordingly Relief
	: Petition is partly allowed awarding lump sum compensation of Rs.1,50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUE No. 1 to 4

8. All these issues are taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. As per the settled law, the Industrial Disputes Act is a beneficial legislation meant to protect the workmen against all forms of exploitation at the hands of their employers. Being the beneficial legislation, its provisions lean towards the labour class and seek to alleviate them from all sort of sufferings at the hand of the resourceful employers. Since the parties can put forth their cases either themselves or through their representatives, who are not skilled in presenting their cases like the professional advocates, therefore, the procedural rules are not strictly applicable before the labour court. It is not necessary that every document relied upon before the labour court is proved strictly in accordance within the parameters laid down in the Indian Evidence Act. Since the parties themselves have to present their cases, therefore, the courts can look into those documents which are not proved on the record by applying the strict rules of evidence but are simply marked provided their authenticity is above board and such documents are material to the controversy involved. The documents relied upon by the parties can also be used against them.

10. Since the Act is the beneficial in nature, therefore, it requires the courts dealing with the case to keep in mind the interest of the labour class so that the purpose of the legislation is not defeated by the strict interpretations of the rules. At the same time a balance has to be maintained by the court between the relief claimed and the material produced in support thereof. The relief claimed can not be granted on mere asking under the garb of the beneficial legislation by throwing all the rules to the winds. Undue sympathy towards the beneficiaries under the Act sometimes leads to encouragement to presentation of fictitious and dishonest claims and purity of the judicial stream gets considerably polluted. The facts and circumstances of each case are to be examined from all possible angles with the humanitarian approach before any conclusion is arrived at.

11. In the case in hand, the correctness of the mandays chart of the petitioner tendered on the record as Ext.RW1/B is not disputed. Thus this document can be safely relied upon. A careful perusal of this document shows that the petitioner had worked w.e.f. 1994 to August, 2001 with the respondent on daily wages basis. Except for the years 1997 and 2001, he has worked for more than 240 days. In the year 1997 the petitioner has worked for 238.5 days and in the year 2001 he worked for 194 days. The petitioner did not work from September 2001 onwards. The demand was raised by him on 20.11.2014 by issuing demand notice Ext.PW1/B.

12. If the reverse counting of the months w.e.f. August 2001 to previous 12 months is made, the net working days, even then exceeds 240 in the calendar year before his alleged termination. Thus in case the respondent intended to terminate the petitioner in the month of September 2001, the working days accumulated in preceding twelve months were to be looked into to ascertain whether the same were 240 or more. As aforesaid, the working days of the petitioner are proved more than 240 in this case, and therefore, compliance of section 25 F of the Act was necessary before his termination. The seniority list of the workmen has also been tendered on the record as Ext. PY/1 and it is clear that several workmen junior to the petitioner have been retained and regularized. It is also clear from the case of the petitioner itself that his muster roll has been allotted to another workman. Thus fresh hands have also been engaged after the date the petitioner did not report to the duties. Thus violation of the sections 25G and 25 H is also made out in the present case as the priority was not given to the petitioner when fresh hands were engaged. The position is clear to this extent.

13. The respondent has taken two-fold stand in this case. Firstly, it is pleaded that the petitioner has himself abandoned the work by absenting himself, and secondly, the petitioner is said

to has raised the demand after more than 12 years, and therefore, his claim suffers from the vice of delay and latches. It is now for this court to examine both these pleas vis-a-vis the claim of the petitioner, before coming to final conclusion.

14. It is well-settled that the plea of abandonment of work is a technical plea and, in case, a workman absents himself from the work without any intimation, no presumption of his having abandoned the job/work can be drawn. The abandonment should always be in express form. In case, the workman absents all of sudden from the work, the employer is under an obligation to call the workman by way of notice and ask him to resume the work or justify his absence. Since the Act is meant to act in the benefit of the workmen, the notice issued by the employer to the absentee workman should apprise such a workman of the consequences of such absence so that the workman is able to protect his interest. In case, the workman after having received such a notice does not resume the work, then the employer must record his satisfaction in writing to the effect that non-reporting to the work by such a workman despite of being informed and cautioned of the consequences of his absence amounts to abandonment of his work and such a workman has no intentions to work any further. Only thereafter the employer should proceed further to engage fresh hands in his place. In case such a procedure is not followed by the employer, he can not be permitted to take the plea of abandonment of the work by the workman.

15. In this case, it is neither pleaded nor proved by the respondent that any notice was served upon the respondent asking him to report to his duties. No notice was served upon the petitioner apprising him of the consequences, in case, he did not report back to the work. The petitioner left the work and the respondent took no steps to call him back. This is not an act of abandonment of work. The abandonment would have occurred in a situation when the petitioner had not reported back to work after he was informed by way of notice of the rights which he was to forfeit on his failure to report to work. The plea of abandonment is thus not established in this case.

16. It may be stated here that once the plea of abandonment of work taken by the respondent is rejected, the workman is not relieved of his duty to prove his case. Rejection of the plea of abandonment of work as taken up by the respondent impliedly means that the services of the petitioner were terminated by the respondent either by way of oral order or by neglecting the absence of the petitioner. The termination is not the sole factor the court has to take into account, but it is one of the factor amongst others to be weighed while the relief of reinstatement is either granted or refused

17. The promptness in raising the demand by the workman is the second and crucial factor, the court has to always weigh. The moment the dispute arises in which the major claim of reinstatement is involved, the workman should raise the demand at once without loss of time so that the matter is settled with promptness before the conciliation officer or referred to the court for an adjudication so that the issue is settled at earliest. The logic is simple on this insistence in raising the demand with promptness. In this manner the workman does not stay out of work for a longer period and the respondent is also not overburdened with the arrears of back wages. Above all, reinstatement of such a workman after giving him continuity in service and seniority over those who are already working, does not cause a sense of dissatisfaction amongst already working workmen. On the other hand, a workman, who sleeps over his rights and does not raise the demand with utmost promptness can not claim the relief of reinstatement as a matter of right. The court can in such cases mould the relief and grant compensation instead. The reasons for the delay are to be examined by the court before proceeding either way. In case, the delay is proved to have been caused not for the inaction on the part of the petitioner, the court can always take such a fact into account.

18. The petitioner, in this case, is out of work w.e.f. September, 2001 and the plea of abandonment of work taken by the respondent has failed. The petitioner has pleaded right from very beginning that soon after his termination a new person was engaged in his place and his muster roll was allotted to the newly engaged person. As per the petitioner, the reason for doing all this was to accommodate this new person as he was working privately in the house of one of the officer of that time. If these facts are accepted on their face-value, it is made out that the dispute has arisen in the year 2001 itself as such an action on the part of the respondent was in violation of the provision contained in section 25 H of the Act. In these facts and circumstances, the petitioner could have raised the demand at once so that the dispute was either resolved with the efforts of the conciliation officer during the conciliation proceedings itself or the reference could have been made to the court on time for timely adjudication.

19. The petitioner raised the demand for the first time by way of demand notice (Ext. PW1/B) in the year 2014. Thus there is a delay of more than 12 years in raising the demand and the appropriate Government has also noticed this aspect of the matter and made a specific reference to this court regarding the effect of such a long delay on the relief claimed. Once the question of delay and laches has been referred to by the Government for adjudication, therefore it is duty of this court to examine whether the petitioner has been able to show his bonafides and proved that the delay in raising the demand was beyond his control and he had not contributed towards the same in any manner. The entire onus is upon the petitioner and it is for him to discharge the same by firstly laying the foundation for the same in the pleadings and thereafter strengthening the same by leading probable evidence.

20. The petitioner has tendered a photocopy of an application which he claims to have submitted to Executive Engineer on 03.09.2001 informing about his illness (Mark A). Another letter claimed to be a joining letter dated 05.01.2002 (Mark B) accompanied by a photocopy of medical certificate (Mark C) and fitness certificate (Mark-D) has also been filed. The respondent, on the other hand, has come up with the case that these documents were never received by the department. There is another photocopy of an application dated 17.5.2002 (Mark-E) praying therein for re-engagement of his services. Another letter dated 25.5.2002(Mark F) is also to the same effect. One more photocopy of the letter (Mark-G) has been tendered on record claimed to be dated 03.10.2002 by which the petitioner has tried to show that he had presented the fitness certificate in the department in January, 2002 but nothing was done by the department. These documents are merely photocopies and it is not known as to where the original documents lie. The respondent has denied that any such letters were received by its office. The petitioner could have sent these documents through posts and produced the postal receipts for the perusal of this court so that the respondent department could not have taken the plea that such documents were never received. The petitioner could have also presented these documents in the diary section of the respondent office so that diary number were mentioned on the same. It appears that such precautions were not taken by the petitioner for the simple reason that all these documents were never sent to the respondent and such document were fabricated and antedated in order to cover up the delay in raising the demand. This apprehension as expressed by this court is not ill found but the same is well founded from the material available on the record discussed hereinafter.

21. There is a letter (Mark I) tendered on the record. It is a letter written to Superintending Engineer dated 11.03.2005. This letter is admitted to have been received by the respondent office. This fact is clear from letter Ext. PW1/D dated 31.03.2005 vide which it was sent to Executive Engineer Chamba for consideration. Prior to this date, no communication from the side of the petitioner has been received by the department. It is important to mention here that the witness examined by the respondent Sh. J.S. Thakur (RW1) has admitted that letter Mark H was also received by their office. He further stated that it was received by them through higher authorities. This admission is proved to be either made mistakenly by this witness or this witness intend to help

the petitioner. Infact this letter is addressed to Executive Engineer itself and this witness is himself the Executive Engineer. When this letter is addressed to the Executive Engineer, then how it would reach his office through higher authorities, when copy of this letter has not been made to any higher authorities. The petitioner has not filed and proved on record any postal record regarding posting of this letter, hence, no benefit can be had from the erroneous admission made by RW1. It appears that this admission was mistakenly made by RW1 (Sh. J.S. Thakur) on the presumption that he was speaking about the letter dated 11.03.2005 received by the Officer of Superintending Engineer from where, it was sent to the office of Executive Engineer vide letter Ext. PW1/D dated 31.03.2005. The letter (Mark I) is the first letter which is proved to have been received by the respondent. The existence of the Letters Mark A, Mark B, Mark E, Mark F, Mark G and Mark H is not proved for want of the postal receipts. The dates of the letters Mark A, Mark B, Mark E to Mark G ranges in between 30.09.2001 to 03.10.2002. Mark C and Mark D are the alleged Medical and the fitness Certificate which are claimed to have been obtained on 31.12.2001 vide which the petitioner has been held fit to resume his duties on 01.01.2002. The existence of all these documents is made doubtful by the petitioner himself for the different reasons discussed hereinafter.

22. As stated earlier, no postal receipts have been filed on the record by the petitioner to prove the fact that he has infact made such a correspondence. The first correspondence ever received by the respondent department is the letter dated 11.03.2005. No correspondence was made in 2006 & 2007 by him and he kept sleeping over his rights. On 02.08.2008, the petitioner represented to the Hon'ble Chief Minister, H.P. and pointed out that he had worked continuously in the PWD for 8 years till 2001 and he was entitled for regularization as per the policy, hence the department be directed to regularize his services. This Letter is Mark J. Copy of this letter was forwarded to Superintending Engineer, as well as Executive Engineer. The Superintending Engineer vide his letter Ext. PW1/E dated 20.08.2008 asked the Executive engineer to look into the matter. Nothing was done in the matter. On 09.06.2008, the petitioner represented again and this representation was also sent to Executive Engineer vide letter Ext. PW1/F dated 14.06.2009 to take appropriate action. Nothing concrete was done in the matter and the petitioner also kept quiet till the year 2013. In the year 2013, the petitioner made a new representation on 5.9.2013 (Mark L) to Superintending Engineer and it was forward to Executive Engineer for inquiry vide letter Ext. PW1/G dated 09.09.2013. The petitioner was called for his personal hearing and his statement was recorded by Executive Engineer on 22.10.2013. The petitioner has made a reference of this statement in his application (Mark M). He has stated in this letter (Mark M) that despite of recording his statement nothing concrete has taken place in the matter. He has not stated that this statement has not been recorded as per his version. Thus this statement dated 22.10.2013 is very material for the purpose of this case. The statement dated 22.10.2013 is also on the record as (Mark-RA). This statement is signed by the petitioner and he has not disputed correctness of this document. When this document is read it shows that the petitioner has fallen ill in September, 2001 and he remained ill and bed-ridden continuously for two years. He has further made the statement to the effect that in March, 2003 he recovered from his illness and thereafter he got his Medical Certificate prepared from Dr. Surender Mohan Sharma of Chamba and handed over the same to PWD department. He has further stated that he remember that it was the year 2004 when the document was handed over by him to the Assistant Engineer. This statement reference whereof the petitioner has made in his letter mentioned above is very crucial and it shows that the petitioner remained ill from the year 2001 to year 2003 and in the year 2003 when he recovered he went to the doctor and got Medical Certificate from him and produced the same in the department in the year 2004. If this statement is taken into account then the alleged intimation dated 03.9.2001 (Mark-A) joining report dated 05.1.2002 (Mark-B), the Medical Certificate (Mark-C) showing his illness w.e.f. 1.11.2001 to 31.12.2001 and fitness certificate (Mark D) allegedly signed by the doctor on 31.12.2001 showing that the petitioner is fit to resume his duties w.e.f. 01.1.2002 are false and fabricated documents. When the petitioner submits in his statement duly signed by him (Mark RA) that he remained ill in the year 2001 and 2002 and the Certificate was obtained by him

in the year 2003 and handed over to the PWD authorities in the year 2004, how the documents Mark A to Mark G referred above were in existence? It is for this reason the postal receipts have not been produced before the court as such letters were never sent. No such documents could have been signed by the Medical officer in the year 2001 when the same are said to have been prepared in the year 2003. Thus the alleged correspondence w.e.f. 30.9.2001 to 03.10.2002 is proved to be fabricated documents as the petitioner in his statement which he has nowhere disputed has stated that he recovered from ailment in the year 2003 and thereafter went to the doctor and obtained the medical certificate. When the medical certificate was procured in the year 2003, where was the question of joining the duties in the year 2001? Where was the question of his fitness in the year 2001? No reliance can be placed upon the same. Otherwise also when medical certificate Mark-C is gone through it does not find the dispatch number of the office of the doctor. If the doctor was competent to issue medical certificates he must have maintained a register showing the entries made therein. Number of register should have been reflected on the medical certificate so that the correctness of the certificate could be related back to the date on which it is said to have been issued. A register is maintained by the medical officer in the regular course of his working in which serial-wise entries are made of the persons to whom such certificates are issued. Issuance of medical certificate is not casual and arbitrary act whereby any document is typed and signed by any doctor and handed over to the person in need thereof. These documents cannot, therefore, be held as legal and admissible. The petitioner certainly has not come to the court with clean hands and has produced several documents which are suspicious in nature. It appears that till the year 2005 he has not corresponded with the department despite of the fact that he knew it well that a new person has been engaged in his place and his rights have been seriously prejudiced from the very beginning. When the affidavit of the petitioner Ext.PW1/A is gone through he has in para no.4 stated that one application was moved by him on 11.3.2003 second was moved on 2.8.2008 third was moved on 9.6.2009 and thereafter in the year 2013. It shows that in between 2005 to 2008 he remained quiet and after 2008 he again remained quiet till the year 2013 when he again started the correspondence. The petitioner although claims that he had written several letters to the department and the higher authorities yet writing of such letters is of no consequence once the industrial dispute has arisen at the very beginning when the new person was engaged at his place and he was not recalled. The petitioner could not have then corresponding with the department till the year 2014 when nothing was favourable. It was his duty to have raised the demand and prayed for making the reference so that timely adjudication could be had from the court.

23. The conduct and intentions of the petitioners are writ large from the letter of subsequent dates. Such letters are Ext. PW1/E, Ext.PW1/F, Ext.PW1/G, and Ext. PW/H. The focus of the petitioner has completely changed while these letters were written. He is now not much concerned with his reinstatement. He is rather claiming that his services be regularized as he already completed eight years in the department. The petitioner has produced two medical certificates from doctor Surender Mohan Sharma, Chamba and surprisingly one medical certificate pertains to the petitioner in the year 1997. When the petitioner realized that he was not completing 240 days in the time period of 12 months in the year 1997, he obtained one medical certificate for seven days at the time when he moved the application for his regularization. In case, the petitioner had fallen ill in the year 1997 and got himself medically examined in the same year he should have produced the medical certificate in the year 1997 itself at the time of joining after the break and not after five-six years when he realized that his service could be regularized in case the shortfall occurring in the working days in the year 1997 could be condoned. All the correspondence made by the petitioner shows that he was more concerned with his regularization than his reinstatement without realizing that a workman out of job could not be regularized until he was firstly taken back in the services.

24. Various facts and circumstances discussed hereinabove prove that the petitioner remained absolutely silent till the year 2005 and corresponded with the department vide his letter (Mark-I) for the first time in the year 2005. It is also proved that to cover up this delay, he cooked

up several letters including the medical certificate and the fitness certificate, and intentionally produced their photocopies before the court without tendering the postal receipts and the original certificates. He is proved to again slept over his right till the year 2008 and started the correspondence again. He again went in slumber till 2013 and represented in the year 2013. it is in this manner, he finally raised the demand in the year 2014. All these facts shows that the petitioner has not raised the demand on time and it took more than 12 years to raise the demand. In the aforesaid background, the delay of 12 years in raising the demand is fatal and the petitioner is proved to have slept over his right for years together despite of the fact that cause of action for raise the demand had arisen to him w.e.f. 2001 itself when a new person was engaged in his place and he was not reinstated. Futile correspondence for more than 12 years and that too after taking long breaks in between and then raising the demand is nothing but an act of sleeping over his rights. In these facts and circumstances, the reinstatement cannot be ordered as such reinstatement after long period shall act as a discouragement to those workmen who are working continuously and a person who has not worked at all shall become their senior and get the services benefits before them. Such reinstatement shall involve unnecessary financial burden on the State and the petitioner can not be rewarded for the delay caused by him in raising the demand. Had the petitioner raised the demand at earliest position would have been different. His claim for reinstatement certainly suffers from the delay and laches for which he is solely responsible. He should have realized long back that he has to raise the demand on time. Thus the claim of the petitioner for reinstatement cannot be favourably considered.

25. It is by now settled law that where the relief of reinstatement is refused to the petitioner on the ground of delay in raising the demand, the relief can be molded by the court and he can be granted compensation instead of reinstatement for the loss he has suffered. In the case in hand also, taking into account the number of the years the petitioners has worked and failure of the respondent in proving the plea of abandonment as taken by it, the petitioner needs to be compensated in terms of money by awarding compensation. Taking into account the age of the petitioner coupled with the fact that he has worked for about eight years with the respondent in the past and further the fact that he was never recalled by way of notice by the respondent when he had absented himself, the petitioner is liable to be compensated by awarding a sum of Rs. 1.5 lac's. In view of the above discussions, claim petition is maintainable and all the issues are decided accordingly.

RELIEF

26. In view of my discussion on the above issues, it is held that though there had been violation of Sections, 25 F, 25-G and 25-H of the Act by the respondent, in this case, but since the petitioner had raised demand after a gap of 12 years his claim for reinstatement has thus been frustrated by delay and laches, hence reinstatement and other consequential service benefits cannot be granted in his favour, yet he is held entitled for compensation to the tune of ₹1,50,000/- (Rupees one lac's and Fifty thousand only), which would be paid within four months by the respondent from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of realization. Parties are left to bear their own cost.

27. The reference is answered in aforesaid terms. A copy of this award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of May, 2022.

**Announced:
09.05.2022**

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 663/2016
Date of Institution : 12.09.2016
Date of Decision : 13.05.2022

Shri Chuni Lal s/o Shri Mast Ram, r/o Village Palibani, P.O.Behli, Tehsil Sunder Nagar,
District Mandi (H.P.) *...Petitioner.*

Versus

1. The Chief Principal Conservator of Forest, Shimla, H.P.
2. The Conservator of Forest, Mandi Circle District Mandi, H.P.
3. The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P. *...Respondents.*

Digitally signed by HANSRAJ
Date: 2022.05.13

15:23:34 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv. (Vice)
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether time to time termination of the services of Shri Chuni Lal s/o Shri Mast Ram, r/o Village Palibani, P.O. Behli, Tehsil Sunder Nagar, District Mandi, H.P. during 08- 1995 to 08-2013 by (i) the Chief Principal Conservator of Forest, Shimla, H.P. (ii) the Conservator of Forest, Mandi Circle, District Mandi, H.P. (iii) the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?”

2. The petitioner has averred in his statement of claim that he was engaged as a daily wage worker by the respondents in the year 1995 and worked continuously as such till August, 2013 when his muster roll was closed and his services were terminated without any inquiry and such a conduct amounts to unfair labour practices. According to him his name has been shown at serial no. 4 of the seniority list dated 30.11.2011 among 128 workers yet he has not been regularized, whereas, rests of the workers have been regularized. The petitioner submits that fictional breaks were given to him time to time w.e.f. August, 1995 and in the year 2010 he approached the Hon'ble High Court of Himachal Pradesh by way of a writ petition. The respondent

did not comply the orders of Hon'ble Court. It is stated that the respondent has caused the violation of the provisions of the Act hence, his petition be allowed and time to time termination be condoned and continuity in service be ordered.

3. The respondents have resisted and contested the petition on the plea of maintainability. They have admitted that the petitioner was engaged in the year 1995 but the version of the respondents is that he was not regular in attending the work and used to come off and on. As per the respondents, no breaks were ever given to him in the manner as alleged and he was in the habit of leaving the work at his own sweet will and except for the years 2014 and 2015 he has never completed 240 days in the calendar year. The demand as raised by him in the year 2013 was also replied and the writ petition filed before the Hon'ble High Court was also contested. On such averments it is submitted that no violation of the provisions of the Act has been done by the respondents, hence petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the facts that fictional breaks were given to him and the workmen junior to him have been regularized, whereas, his services were terminated.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 01.08.2018 for determination:-

1. Whether time to time termination of the service of the petitioner by the respondents during August, 1995 to August, 2013 is/was legal and justified as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the petition is not maintainable in the present form as alleged? ...*OPR*.

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Deputy District Attorney for the respondents at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No.1	: decided accordingly.
Issue No.2	: decided accordingly.
Issue No.3	: No
Relief	: Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has stepped in the witness box as PW1 and sworn his affidavit Ext. PW1/A which is nothing but the replica of the claim petition. He was subjected to cross-examination wherein he denied that he gave up his work at his own sweet will and his services

were never terminated in between. He also admitted that he had worked even after the year 2013. The respondents, to meet the case of the petitioner have examined Shri Subhash Chand Prashar as RW1 and his affidavit is Ext.RW1/A. It is stated in the affidavit that the petitioner was himself not attending the work regularly and remained absent from the duties for years together and his services were neither terminated and nor re-engaged as alleged by him. In his cross-examination he has specifically denied that the petitioner was given intermittent breaks.

10. Shri Subhash Chand Prashar has tendered on the record the mandays chart of the petitioner as Ext. RW1/B and this document is not in dispute, hence, it is a material document for the purpose of this case. When this document is carefully examined, it becomes clear that the petitioner had worked in the year 1995 for 06 days and thereafter he did not work even for a single day till the year 2001. He has reported to his work in the year 2003 for last two months and worked for 46 days only. Thereafter in the year 2004 he did not work even for a single day. Similarly in the year 2008 he did not work even for a single day. From 2009 to 2013 he has never completed 240 days. Before the plea of the petitioner is adjudicated regarding fictional breaks, it is appropriate to understand as to what the fictional breaks actual are? The fictional breaks are those breaks in the service of the workman which are given during the period of one year with a view to let him not complete 240 working days so that any right under labour laws does not accrue in his favour. If a person remains absent for five years together it is not fictional breaks. It is rather discontinuation of the work. Fictional breaks at the most can be within a span of 12 months with the aforesaid intentions. In this case, the petitioner has not worked even for a single day in the years between 1996 to 2001 and in the year 2002 he worked only for last two months. He did not work even for single day in the years 2004 and 2008. These are not fictional breaks, rather this is absence from the work. In case, it is believed that the petitioner was disengaged from the work in the year 1997 and remained out of work till 2001, it was for the workman to raise the demand as it amounted to termination. Even if the respondent took the plea of abandonment, and in case, the plea failed, it could be termed as termination. The petitioner should have mended this break by raising the demand at earliest so that he could get the continuity in the service. The petitioner has never served a demand notice in all these years in which he has not worked even for a single day. The demand notice was served by him in the year 2013 and he prayed for continuity in service so that he could claim regularization. Such a plea can never be accepted for the simple reason that in case such breaks are condoned by the court, in that case even a workman who had actually absented from the work for years together shall get the right of regularization in the work without actually working. The respondents have come up with the plea that the petitioner was himself in the habit of not reporting to the work for years together and whenever he reported he was given work. In this situation, the petitioner was bound to lead better evidence to show that he was verbally terminated and he has not given up the work at his own. As aforesaid when the petitioner remained out of work continuously for a long span of five years, he should have raised the demand then and there. When no such demand was raised by him the presumption goes that he has himself absented from work and had no intentions to join the same later on. He reported for work after five years and did not work for 240 days in the calendar year. This is not the case of the abandonment also in which onus could be upon the respondents to prove the plea of abandonment. This is a case where the petitioner has highlighted that his time to time termination was bad. The petitioner has himself failed to prove his time to time termination. Rather it is proved from the evidence on the record that he had absented for years together and then reported for work for few months and then again absented for tenure of full year. This is not literally the termination of the services but it is act of a absenting from the work and such breaks which had extended for years together cannot be condoned by the court and benefit of continuous service and seniority cannot be given. In such a case as a person who has actually not worked for years together shall be a unduly benefited by the award of the court despite of the fact that he has been very irregular in his work. The beneficial nature of the legislation does not mean that undue sympathy is shown in favour of such workmen who are themselves not serious regarding the work and remain absent for years together without any

reason. The petitioner has failed to prove the time to time termination in this case, and it is proved that he had remained absent for years together and resumed the work thereafter. In view of the aforesaid discussions both these issues are decided accordingly.

ISSUE NO. 3

11. It is held that petition is maintainable as it is reference made by the appropriate Government and filing of the petition is the requirement to answer the reference. Hence, this issue is decided against the respondents.

RELIEF

12. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM- INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 662/2016
Date of Institution : 12.09.2016
Date of Decision : 13.05.2022

Shri Hira Lal s/o Shri Jagat Ram, r/o V.P.O. Behli, Tehsil Sunder Nagar, District
Mandi (H.P.) ...Petitioner.

Versus

1. The Chief Principal Conservator of Forest, Shimla, H.P.
2. The Conservator of Forest, Mandi Circle District Mandi, H.P.
3. The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District
Mandi (H.P.) ...Respondents.

Digitally signed by HANSRAJ
Date: 2022.05.13

15:31:52 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv. (Vice)

For the Respondent(s) : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether time to time termination of the services of Shri Hira Lal, s/o Shri Jagat Ram, r/o V.P.O. Behli, Tehsil Sunder Nagar, District Mandi, H.P. during 02-1997 to 09-2013 by (i) the Chief Principal Conservator of Forest, Shimla, H.P. (ii) the Conservator of Forest, Mandi Circle, District Mandi, H.P. (iii) the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?”

2. The petitioner has averred in his statement of claim that he was engaged as a daily wage worker by the respondents in the year 1997 and worked continuously as such till August, 2013 when his muster roll was closed and his services were terminated without any inquiry and such a conduct amounts to unfair labour practices. According to him his name has been shown at serial no.6 of the seniority list dated 30.11.2011 among 128 workers yet he has not been regularized, whereas, rests of the workers have been regularized. The petitioner submits that fictional breaks were given to him time to time w.e.f. February, 1997 and in the year 2010 he approached the Hon'ble High Court of Himachal Pradesh by way of a writ petition. The respondent did not comply the orders of Hon'ble Court. It is stated that the respondent has caused the violation of the provisions of the Act hence, his petition be allowed and time to time termination be condoned and continuity in service be ordered.

3. The respondents have resisted and contested the petition on the plea of maintainability. They have admitted that the petitioner was engaged in the year 1997 but the version of the respondents is that he was not regular in attending the work and used to come off and on. As per the respondents, no breaks were ever given to him in the manner as alleged and he was in the habit of leaving the work at his own sweet will and except for the years 2014, 2015 and 2016 he has never completed 240 days in the calendar year. The demand as raised by him in the year 2013 was also replied and the writ petition filed before the Hon'ble High Court was also contested. On such averments it is submitted that no violation of the provisions of the Act has been done by the respondents, hence petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the facts that fictional breaks were given to him and the workmen junior to him have been regularized, whereas, his services were terminated.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 01.08.2018 for determination:—

1. Whether time to time termination of the service of the petitioner by the respondents during Feb., 1997 to Sept., 2013 is/was legal and justified as alleged? ...*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP.*
3. Whether the petition is not maintainable in the present form as alleged? ..*OPR.*

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Deputy District Attorney for the respondents at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No.1 : decided accordingly.
Issue No.2 : decided accordingly.
Issue No.3 : No
Relief : Petition is dismissed per operative portion of the Award

REASONS FOR FINDINGS

ISSUES No. 1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner has stepped in the witness box as PW1 and sworn his affidavit Ext. PW1/A which is nothing but the replica of the claim petition. He was subjected to cross-examination wherein he denied that he gave up his work at his own sweet will and his services were never terminated in between. He also admitted that he had worked even after the year 2013. The respondents, to meet the case of the petitioner have examined Shri Subhash Chand Prashar as RW1 and his affidavit is Ext.RW1/A. It is stated in the affidavit that the petitioner was himself not attending the work regularly and remained absent from the duties for years together and his services were neither terminated and nor re-engaged as alleged by him. In his cross-examination he has specifically denied that the petitioner was given intermittent breaks.

10. Shri Subhash Chand Prashar has tendered on the record the mandays chart of the petitioner as Ext. RW1/B and this document is not in dispute, hence, it is a material document for the purpose of this case. When this document is carefully examined, it becomes clear that the petitioner had worked in the year 1997 for 42 days and thereafter he did not work even for a single day till the year 2002. He has reported to his work in the year February 2003 and worked for 25 days only. Thereafter in the year 2004 he did not work even for a single day. Similarly in the year 2008 he did not work even for a single day. From 2009 to 2013 he has never completed 240 days. Before the plea of the petitioner is adjudicated regarding fictional breaks, it is appropriate to understand as to what the fictional breaks actual are? The fictional breaks are those breaks in the service of the workman which are given during the period of one year with a view to let him not complete 240 working days so that any right under labour laws does not accrue in his favour. If a person remain absent for five years together it is not fictional breaks. It is rather discontinuation of the work. Fictional breaks at the most can be within a span of 12 months with the aforesaid intentions. In this case, the petitioner has not worked even for a single day in the years between 1998 to 2002 and in the year 2003 he worked only in the month of February. He did not work even for single day in the years 2004 and 2008. These are not fictional breaks, rather this is absence from the work. In case, it is believed that the petitioner was disengaged from the work in the year 1997 and remained out of work till 2002, it was for the workman to raise the demand as it amounted to termination. Even if the respondent took the plea of abandonment, and in case, the plea failed, it could be termed as termination. The petitioner should have mended this break by raising the

demand at earliest so that he could get the continuity in the service. The petitioner has never served a demand notice in all these years in which he has not worked even for a single day. The demand notice was served by him in the year 2013 and he prayed for continuity in service so that he could claim regularization. Such a plea can never be accepted for the simple reason that in case such breaks are condoned by the court, in that case even a workman who had actually absented from the work for years together shall get the right of regularization in the work without actually working. The respondents have come up with the plea that the petitioner was himself in the habit of not reporting to the work for years together and whenever he reported he was given work. In this situation, the petitioner was bound to lead better evidence to show that he was verbally terminated and he has not given up the work at his own. As aforesaid when the petitioner remained out of work continuously for a long span of five years, he should have raised the demand then and there. When no such demand was raised by him the presumption goes that he has himself absented from work and had no intentions to join the same later on. He reported for work after five years and did not work for 240 days in the calendar year. This is not the case of the abandonment also in which onus could be upon the respondents to prove the plea of abandonment. This is a case where the petitioner has highlighted that his time to time termination was bad. The petitioner has himself failed to prove his time to time termination. Rather it is proved from the evidence on the record that he had absented for years together and then reported for work for few months and then again absented for tenure of full year. This is not literally the termination of the services but it is act of a absenting from the work and such breaks which had extended for years together cannot be condoned by the court and benefit of continuous service and seniority cannot be given. In such a case as a person who has actually not worked for years together shall be a unduly benefited by the award of the court despite of the fact that he has been very irregular in his work. The beneficial nature of the legislation does not mean that undue sympathy is shown in favour of such workmen who are themselves not serious regarding the work and remain absent for years together without any reason. The petitioner has failed to prove the time to time termination in this case, and it is proved that he had remained absent for years together and resumed the work thereafter. In view of the aforesaid discussions both these issues are decided accordingly.

ISSUE NO.3

11. It is held that petition is maintainable as it is reference made by the appropriate Government and filing of the petition is the requirement to answer the reference. Hence, this issue is decided against the respondents.

RELIEF

12. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 54/2018
Date of Institution : 06.06.2018
Date of Decision : 13.05.2022

Shri Ram Lal s/o Shri Bidhi Chand, r/o Village Bhager, P.O. Chauntra, Tehsil Joginder Nagar, District Mandi (H.P.) ...Petitioner.

Versus

The Divisional Forest Officer, Joginder Nagar, District Mandi (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ
Date: 2022.05.13

15:19:09 IST

For the Petitioner : Sh. N.L. Kaundal, Ld. AR
Shri Rajat Chaudhary, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether time to time termination of services of Shri Ram Lal s/o Shri Bidhi Chand, r/o Village Bhager, P.O. Chauntra, Tehsil Joginder Nagar, District Mandi, H.P. during December, 2010 to January, 2016 and finally during January, 2016 (as alleged by workman) by the Divisional Forest Officer, Joginder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has pleaded in his statement of claim that he was engaged on daily wage basis on muster roll by the respondent w.e.f. December, 2010 and worked as such till January, 2016 with breaks. His services were terminated time to time termination by the respondent intentionally in order to deprive him from claiming those benefits under the labour law that would accrue in his favour in case he completed 240 days in every calendar year. The petitioner was neither given any casual cards nor wage slips by the respondent and his services were engaged on bill vouchers and sometimes on muster roll and now the petitioner has come to know that false vouchers were prepared by Range Officer and month to month record has been destroyed. It is submitted that the respondent has thus indulged in unfair labour practices. The petitioner was finally terminated in January, 2016 and the principle of 'Last come First go' was violated as the workmen junior to him are still retained. The petitioner has named his juniors as Smt. Rekha Devi, Smt. Reeta Devi, Smt. Guddi Devi and Shri Kashmir Singh, who are stated still in service. On these averments, the petitioner has submitted that his time to time termination in between December, 2010 to January,

2016 and final termination w.e.f. January, 2016 be set aside and his reinstatement be ordered with continuity in service, seniority and all the consequential benefits .

3. The respondent has resisted and contested the petition on the plea of maintainability and has taken other preliminary objections. On merits, it is stated that the petitioner was never engaged on daily wage basis as claimed by him. It is explained that the services of the petitioner were taken on bill basis right from the year 2010 and he was paid for the work he has done. The detail of the payments have also been mentioned and it is explained that the amount paid to the petitioner against the vouchers is much more than the daily wage calculated per month, and it is therefore, clear that his services were never engaged on daily wage basis. The respondent is said to be performing seasonal works and therefore, it is not a continuous work. The workmen are engaged as per the requirement on bill basis and there no question of termination or time to time termination of the petitioner's services as alleged. It is denied that any workman junior to the petitioner has been retained. As per the respondent, no illegality has been done and the allegations regarding destroying of the documents are utterly false. So far as Smt. Rekha Devi, Smt. Reeta Devi, Smt. Guddi Devi etc. are concerned, it is submitted that they have not worked after the year 2012 and 2013 with the respondent department and hence there is no question of flouting the rule of 'Last come First go'. It is submitted that the claim is without any merit and be dismissed as such.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply. Apart from it, the petitioner has reproduced several citations in the rejoinder.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 05.08.2018 for determination:-

1. Whether time to time termination of services of the petitioner during December, 2010 to January, 2016 and finally during January, 2016 by the respondent is/was illegal and unjustified, as alleged? ...OPP.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...OPP.
3. Whether the claim petition is not maintainable, as alleged? ...OPR.
4. Whether the claim petition is bad on account of delay and laches, as alleged? ...OPR.
5. Whether the claim petition is bad for non-joinder of necessary parties, as alleged? ...OPR.

Relief.

6. I have heard learned Authorized Representative/ counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

- | | |
|------------|-----------------------|
| Issue No.1 | : No |
| Issue No.2 | : decided accordingly |
| Issue No.3 | : No |
| Issue No.4 | : No |

Issue No.5 : No
Relief : Petition is **dismissed** per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The learned Authorized Representative appearing for the petitioner has argued that the petitioner was engaged as daily wager and his name has been displayed at Sr. No. 103 of the seniority list placed on record as Ext. P1, hence, the plea of the respondent that the services of the petitioner were engaged on bill basis is proved false on the fact of it. He further argued that engaging a person on bill basis is an instance of unfair labour practice and such a practice is intentionally followed by the departments with a view to frustrate those provisions of the Act that create valuable rights in favour of the workmen. The learned Authorized Representative has argued that the documents proved on the record by the respondent are suspicious and the muster rolls pertaining to the petitioner have been wrongly withheld, and therefore, the petitioner is entitled for the relief claimed.

10. On the other hand, the learned Dy. District Attorney for the respondent has argued that the respondent was engaged on bill vouchers basis in the year 2010 and there was no question of engaging his services on muster rolls as there was a Government notification pertaining to the year 2009 vide which engagement of workmen on muster rolls by the government departments was strictly prohibited. As per the notification only those workmen who had been working prior to the year 2009 could be retained on muster rolls and the new works were supposed to be executed on bill vouchers basis, in case the amount proposed to be spent did not exceed to one Lakh rupees. The quotations could be called where the amount exceeded Rs.1 lac and was below Rs.5 lac. According to him in case amount to be spent by the department exceeded Rs.5 lac in that case tenders had to be floated. The learned Dy. District Attorney has drawn the attention towards the statement of the petitioner recorded in cross-examination as well as the bill vouchers, copies whereof have been proved on the record and argued that the petitioner has come with the false plea before this court. So far as the seniority list is concerned, learned Dy. District Attorney has argued that merely referring the name of the petitioner in the seniority list is not a proof of fact that he was engaged on muster rolls as all those workmen who had been working for the respondent department are shown to in the seniority list and such list does not prove the case of the petitioner at all.

11. While the material on the record is carefully examined, it becomes clear that the respondent had tendered on record the copy of notification Ext.RW1/C. This notification was circulated amongst all the departments by the Government in the year 2009 itself and all the departments were directed to follow the same in letter and spirit. When this notification is carefully gone through it becomes clear that it came into being with the purpose of introduction of bills/ voucher/ tender system for all works and it was to apply to all the new workers except those already working on daily wages. Since this notification was circulated and implemented in the year 2009, there was no question for the respondent department to engage the services of the petitioner in the year 2010 on muster roll basis as no Government department shall dare to violate the instructions of the Government and engage the labourers contrary to the directions. This notification placed on the record as Ext. RW1/ C reveals a complete scheme in which the works had to be executed. It is clear that works below or upto Rs.1 lac were to be executed on bill basis on sanctioned schedule of rates without calling for the quotations. Quotations were to be called in those cases where the work exceeded Rs.1 lac and went upto Rs.5 lac. In those cases where the cost of the work exceeded

Rs.5 lac tenders were to be called. This notification is being implemented by all the departments of Himachal Government and the respondent department is not an exception to the same. Since the petitioner was engaged in December, 2010 it is but natural that there was no question of engaging him on muster roll basis. Whether this notification is an instance of unfair labour practice or not? This question cannot be gone into by this court in this reference as reference is not regarding the examination of the legality of this notification. Had there been the reference for this court to adjudicate upon the fact whether introduction of bill basis by the respondent was an instance of unfair labour practices, the court could have adjudicated the same by answering the reference. No such reference has been sent for adjudication by this court and therefore the court at least cannot comment upon the fact whether introduction of bill system is an instance of unfair labour practice or not. Since there is notification of the Government of Himachal Pradesh and since all the departments are bound to follow the same, it therefore, strengthens the case of the respondent to the effect that the petitioner was given the work on bill basis system in December, 2010 and he was not engaged in muster roll.

12. The petitioner stepped into witness box as PW1 and after having tendered his affidavit Ext.PW1/A was subjected to cross-examination in which he made the position more clear. He admitted categorically that he was engaged in the year 2010 but tried to make out the case that he was engaged on muster rolls and his mandays chart was prepared. When he was further cross-examined he admitted categorically that he was paid on bill basis by the department, and Rs.14,640/- were paid to him in December, 2010, Rs.17,700/- in January, 2011, Rs.16,220/- in March, 2011 and Rs.19,680/- in August, 2011. The court can always take a judicial notice of the fact that if the petitioner was engaged on daily wages in the year 2010, the monthly wages would have not turned as Rs.14,640/- or Rs.17700/- but much less. Rs.19680/- were paid to the petitioner in August, 2011. Had the petitioner been engaged on daily wages and had mandays chart been prepared, he would not have received the wages to the tune of Rs.19,680/-, Rs.17,700/- and Rs.16,220/- per month. In the year 2010 the daily wages should have been more than Rs.130/- per day as is clear from documents RA 11 to RA 13. In this manner the monthly wages would have become 3900 per month. Had the petitioner been working on daily wages a payment of Rs.19,680/- could not have been made to him by any stretch of imagination as a wages for one month. The petitioner has himself admitted that he had received these payment. When he was further probed, he tried to explain the things by stating that the wages of three or four person were paid together to him. Such statement is nothing but a lame excuse. When, a bill Ext.P1 which is regarding payment of Rs.14,640/- is carefully seen, it becomes clear that it was duly signed by the petitioner at the time when the payment was made to him. It is also clear that the some work was measured and on the basis of assessment, payment of assessed. Similar is the position Ext.RA2 to RA3, RA4, RA5 upto Ex.RA34 excluding RA11 to RA13. Every time the work done by the petitioner was assessed by the authorities on the given parameters and thereafter payment was made. Had the petitioner been engaged on daily wages there was no question of assessment of work. At the end of the day the petitioner would have earned the daily wage fixed by the Government and payment for 30 or 31 days as the case may be would have paid to him at the end of the month. The respondent has placed on the record the mandays chart of the petitioner as Ext.RW1/B and it is clear from the same that the days were not calculated, rather, the work was assessed and payment was made. It means that there was no time limit for the work in which it could be completed. The given work could be completed with a day or within a week. The work could be even completed by seeking assistance from the family members. The only requirement was completion of the work coupled with the assessment of the same before payment was released. In case the petitioner was engaged as daily wagger then why he has accepted the payments vide bill vouchers Ex.RA1 to Ext.RA34, every time when the work was allotted to him. He should have refused. He would have question as to why he was paid four times higher amount to the monthly wages of a labourer. The petitioner has remained silent throughout and worked whenever the work was allotted to him and received the amount which was much higher to the wages of a month. Now the petitioner appears to have come to the

court with the expectations that he could avail the benefit of regularization, in case, he was treated as daily wager and the alleged fictional breaks were condoned. The petitioner has himself not proved the period of break. When the days were not calculated at all either by the department or by the petitioner there was no question of calculating the breaks. The work was allotted on bill basis and once the work was allotted it had to be completed either working during day time or night time, by one person or by other members of the family. The payment was released after assessment of work, and the profit and loss, if any, belonged to the workman. It was immaterial whether he completed the work himself or with the assistance of his family members. The department was concerned with the completion of the work assigned. The assessment of the work was made as per the rates approved by the Government of Himachal Pradesh. So far as the seniority list Ext. P1 is concerned, it no doubt speaks of the fact that the petitioner was casual labourer/daily wager yet this document in isolation is not sufficient to conclude that the petitioner was daily wager. This list does not prove in isolation that the engagement of the petitioner was on daily wage on muster roll. The respondent, on the other hand, has examined Shri Rakesh Kumar Katoch Forest Officer as RW1. He tendered his affidavit Ext.RW1/A and tendered the details of the bill payments Ext.RW1/B and the notification Ext.RW1/C. He was subjected to cross-examination wherein he said that no agreement was made between the petitioner and the respondent for bill basis. He has explained that there was no need. He has admitted that quotations were not called for the petitioner. In this case there was no need to call for the quotation as the work was below Rs.1 lac and it was to be executed on bill basis alone. He has specifically denied that no breaks were given to the petitioner. There is nothing in the statement of Shri Rakesh Kumar Katoch which could support the case of the petitioner and make this court to believe that the petitioner was a daily wage worker and was engaged as such w.e.f. December, 2010.

13. The petitioner has come up with another case to the effect that the junior workmen to him were retained. He has named Smt. Rekha Devi, Smt. Guddi Devi, Smt. Reeta Devi etc. When the evidence was led by the respondent, it has specifically been said that these workers were also engaged on bill basis and after the year 2013 or so they have not reported to the work. No evidence has been led by the petitioner to show that they were still working and muster roll was issued in their favour. The witness Shri Rakesh Katoch had admitted that the bills Ext. RA11, Ext.RA12 and Ext.RA13 are daily rate of Rs.130 as fixed by the Government. It is true that these bills have been prepared showing the bill rate. When these bills are carefully gone through it become clear that no work which could be accessed on the spot, was allotted to the petitioner during this period. Rather he was asked to do the duty of fire watcher for 31 days and paid vide document Ext. RA 11, same work was assigned to him for 15 days vide document Ex. RA 12 and for another 15 days by Ext. RA13. The work of fire watcher is certainly a seasonal work and such work accrues in the months of May, June and July. It is clear from Ext.RA11 to Ext. RA13 that the petitioner has worked as fire watcher w.e.f. 01.5.2012 to 31.5.2012, then 01.6.2012 to 15.6.2012 for 15 days, from 16.6.2012 to 30.6.2012 for another 15 days. Since the work of fire watcher is not capable of being assessed like the work of digging pits, raising a wall and raising of the fencing therefore, it could not be assessed and it was got executed by assessing per day daily prevalent at that time without issuing a muster roll. Infact, muster roll could not be issued at all after year 2009 as per the notification of the Government to the new workmen. Thus these three documents will also not make the petitioner as daily wager. There are other documents on the record which consist of notices displayed by the respondent every year for calling the labour to execute the work. These documents are Ext.PW1/B and Ext.PW1/C which also show that it was a work on bill basis and not a continuing work. Ext.PW1/D is the demand notice and it also does not prove anything in favour of the petitioner except the fact he has raised demand for the first time in the year 2016 after having worked on bill basis for six years and then realizing all of sudden that he should claim regularization in the department.

14. The result of the aforesaid discussion is that the petitioner has failed to prove his engagement on daily wage beldar/work on muster roll. Rather, it is proved on the record the services of the petitioner were engaged on bill basis by the respondent. It is also proved that the work was assessed as per the rates approved by the Government and the payment was made accordingly which are on much higher side than daily wages computed for a month. It is also proved that no mandays chart was prepared and the petitioner was not paid daily for every day work. When such is the position, there was no question giving him intentional breaks and there is not also any question holding that such breaks were given in order to prevent a right to be accrued in favour of the petitioner. The petitioner has thus failed to prove that he was retrenched time to time and finally in the year 2016 in violation of Sections 25-F, 25-G and 25-H of the Act. Rather it is proved that the petitioner was given the works on bill basis and not on the muster roll in which the provisions of Sections 25-F, 25-G and 25-H of the Act had no application. Issues no. 1 and 2, are therefore, held against the petitioner.

ISSUE NO. 3

15. It is held that petition is maintainable as it is reference made by the appropriate Government and filing of the petition is the requirement to answer the reference. It is a different matter that the claim petition has failed on merit. Hence, this issue is decided against the respondent.

ISSUES NO.4 and 5

16. No evidence has been led by the respondent as to how the petition is bad on delay and laches and who are necessary party for the purpose of this petition. Since the petition is filed soon after the alleged termination and the demand has been served on time, therefore, no delay on the part of the petitioner is proved. No officer or department are also proved as necessary parties for the purpose of this petition, who have not been joined. Both these issues are held against the respondent.

RELIEF

17. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

BEFORE THE NATIONAL LOK ADALAT HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under Section 19 of the Legal Services Authorities Act, 1987 (Central Act)]

Applicant : Smt. Amarjeet Kour w/o Shri Kishor Singh, VPO Gurpalah, Tehsil Haroli, District Una (H.P.).

Respondent(s) : The Managing Director, M/S Nayasa Multiplast, Khasra No.224, 225, 227, 228, Vill. Bela Bathri, Tehsil Haroli, District Una (H.P.).

Number of proceedings of the
Labour Court-cum-Industrial
Tribunal, Dharamshala. : 91/2021

Present:-

Applicant : Sh. Mukul Vaid, Ld. Adv.
Respondent : Sh. Rajat Chaudhary, Ld. Adv.

AWARD

The dispute between the parties having been referred for determination to the National Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement:

The parties have entered in a compromise and the matter has been settled between the parties for a sum of Rs.50,000/- which has been paid by way cheque vide separate statement of Shri Mukul Vaid learned counsel for the petitioner recorded on 11.05.2022. In view of this the reference/claim petition is disposed off and the reference is answered in the aforesaid terms.

The parties are informed that the Court fee, if any, paid by any of them shall be refunded.

Member
(B.S. PATHANIA)

Judicial Officer
(HANS RAJ)

Announced:

Date: 14.5.2022

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref No. : 02/2019
Date of Institution : 24.01.2019
Date of Decision : 23.5.2022

Shri Bhagat Singh s/o Shri Kahan Chand, r/o Village Gotra, P.O. Behli, Sub Tehsil Nehri, District Mandi (H.P.)
...Petitioner.

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi (H.P.) *...Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ

Date: 2022.05.23

14:36:51 IST

For the Petitioner	: None for the petitioner
For the Respondent	: Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether time to time termination of services of Shri Bhagat Singh s/o Shri Kahan Chand, r/o Village Gotra, P.O. Behli, Sub-Tehsil Nehri, District Mandi, H.P. during year, 2004 to year, 2015 (as alleged by workman) by the Divisional Forest Officer Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner namely Shri Bhagat Singh had filed this claim on the averments that he was engaged as a daily waged beldar in the respondent department in the year 2004 and worked regularly in the same capacity thereafter. Presently he was engaged in Range Jhungi. As per the petitioner, the fictional breaks were given to him and others despite of availability of work and his name was not entered in the seniority list, whereas, the workmen junior to him have been shown in the same. Now his work was assessed on bill basis despite of the fact that work and funds were available with the department. Feeling aggrieved of the fact that his name did not figure anywhere in the seniority list, the petitioner served the demand notice in the year 2014 on the respondent and conciliation took place but nothing favourable took place. According to him, the seniority list prepared for regularization of daily waged Class-IV by the department shows that one Shri Baldev s/o Shri Panna Lal was mentioned at serial no.109 despite of the fact that his initial engagement was w.e.f. January, 2007 and he was thus junior to the petitioner, and the petitioner was not considered for regularization. On such averments he had prayed for condoning time to time termination period and has claimed all services benefits including seniority and continuity in service.

3. The respondent has resisted and contested the claim and submitted that the petitioner has never worked as daily waged beldar with the respondent department and there was thus no question of giving him fictional breaks. The respondent denied other allegations and focused on the fact that the petitioner was neither engaged as daily waged beldar nor he had worked as such with the respondent department.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 23.07.2021 for determination:-

1. Whether time to time termination of services of the petitioner during year, 2004 to 2015 by the respondent is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether petitioner has no locus standi to file the present case, as alleged? ...*OPR*.
5. Whether the petitioner has not come to the Court with clean hands and has suppressed the true and material facts from this Court, as alleged? ...*OPR*.

Relief.

6. I have heard learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No.1	: Negative
Issue No.2	: Negative
Issue No.3	: No
Issue No.4	: No
Issue No.5	: No
Relief	: Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. No evidence was led by the petitioner on few dates. Later on his counsel pleaded no instructions, and therefore, a notice was served upon the petitioner for 19.5.2022. The notice was served upon him personally and despite of this he did not put in appearance in the court. Since, the reference received from the appropriate Government could not be dismissed and default and it had to be answered, therefore, this court proceeded further with the same.

10. It is in this background the present reference is being answered.

11. Whatever has been pleaded by the petitioner, but no evidence has been led by him to prove the same. The allegations would have been proved or disproved had the petitioner led evidence in support of the same. Since he has not appeared before the court after notice upon him

was served, therefore no evidence could be recorded in support of the pleadings. When no evidence has been led by the petitioner, it is therefore, proved that he was not engaged as a daily waged beldar in the respondent department as claimed by him. It is not proved that in between year 2004 to 2015 his services were terminated time to time, as alleged by him. Therefore issue no.1 is held in negative, issued no.2 being dependent upon issue no.1 is also held in negative. As the onus was placed upon the respondent to prove the issues no.3 to 5, but no evidence has been led, hence all the issues are decided against the respondent.

RELIEF

12. In view of my above discussions, claim petition merits dismissal and is accordingly dismissed as the petitioner has failed to prove the allegation by leading evidence. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 01/2019
Date of Institution : 24.01.2019
Date of Decision : 23.5.2022

Shri Gopal Singh s/o Shri Jawahar, r/o Village Dhanu, P.O.Rakol, Tehsil Nehri, District Mandi (H.P.) ...Petitioner.

Versus

The Divisional Forest Officer, Suket Forest Division, SunderNagar, District Mandi (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ
Date: 2022.05.23

14:37:25 IST

For the Petitioner : None for the petitioner
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether time to time termination of services of Shri Gopal Singh s/o Shri Jawahar, r/o Village Dhanu, P.O. Rakol, Sub Tehsil Nehri, District Mandi, H.P. during year, 2004 to year, 2015 (as alleged by workman) by the Divisional Forest Officer Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner namely Shri Gopal Singh had filed this claim on the averments that he was engaged as a daily waged beldar in the respondent department in the year 2005 and worked regularly in the same capacity. Presently he was engaged in Range Jhungi. As per the petitioner, the fictional breaks were given to him and others despite of availability of work and funds and his name was not entered in the seniority list, whereas, the workmen junior to him have been shown in the same. Now his work was assessed on bill basis despite of the fact that work and funds were available with the department. Feeling aggrieved of the fact that his name did not figure anywhere in the seniority list, the petitioner served the demand notice in the year 2014 on the respondent and conciliation took place but nothing favourable happened. According to him, the seniority list prepared for regularization of daily waged Class-IV by the department shows one Shri Baldev s/o Shri Panna Lal was mentioned at serial no.109 despite of the fact that his initial engagement was w.e.f. January, 2007 and he was thus junior to the petitioner, and the case of the petitioner was never considered for regularization. On such averments, he had prayed for condoning time to time termination period and grant of all services benefits including seniority and continuity in service in his favour.

3. The respondent has resisted and contested the claim and submitted that the petitioner has never worked as daily waged beldar with the respondent department and there was thus no question of giving him fictional breaks as claimed by him. The respondent denied other allegations and focused on the fact that the petitioner was never engaged as daily waged beldar nor he had worked as such with the respondent department at any point of time.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 23.07.2021 for determination:-

1. Whether time to time termination of services of the petitioner during year, 2004 to 2015 by the respondent is/was illegal and unjustified, as alleged? ...*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP.*
3. Whether the claim petition is not maintainable, as alleged? ...*OPR.*
4. Whether petitioner has no locus standi to file the present case, as alleged? ...*OPR.*
5. Whether the petitioner has not come to the Court with clean hands and has suppressed the true and material facts from this Court, as alleged? ...*OPR.*

Relief.

6. I have heard learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	: Negative
Issue No.2	: Negative
Issue No.3	: No
Issue No.4	: No
Issue No.5	: No
Relief	: Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS**ISSUES No.1 to 5**

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. No evidence was led by the petitioner on few dates. Later on his counsel pleaded no instructions and therefore notice was served upon the petitioner for 19.5.2022 by the court apprising him of the position so that he could pursue his claim. The notice was served upon him personally and despite of this he did not put in appearance in the court. Since the reference received from the appropriate Government could not be dismissed in default and it had to be answered, therefore, this court proceeded further with the same.

10. It is in this background the present reference is being answered.

11. Whatever has been pleaded by the petitioner has to be backed by the evidence before the same can be relied upon by the court. The allegations are said to have been either proved or disproved when the evidence is led in support of the same. Since the petitioner has not appeared before the court after notice was served upon him, therefore no evidence could be recorded in support of the pleadings. When no evidence has been led by the petitioner, it is therefore, proved that he was not engaged as a daily waged beldar in the respondent department as claimed by him. It is, therefore, not proved that in between year 2004 to 2015 his services were terminated time to time by the respondent, and therefore issue no.1 is held in negative. Issue no.2 being dependent upon issue no.1, it is also held in negative. No evidence has been led by the respondent on the issues, the onus to prove the same was upon it, therefore, issues no.3 to 5 are also decided against the respondent.

RELIEF

12. In view of my above discussions, claim petition merits dismissal and is accordingly dismissed as the petitioner has failed to prove the averments made by him in the claim petition. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

13. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 45/2019
Date of Institution : 22.04.2019
Date of Decision : 23.5.2022

Smt. Punni Devi w/o Shri Chamaru Ram, r/o Village Kandi Kochhra, P.O. Kalhani, Sub-Tehsil Balichowki, District Mandi (H.P.)
...*Petitioner.*

Versus

1. The Headmaster, Government Primary School Kandi Kachhara, P.O. Balichowki, District Mandi (H.P.).
2. The President, School Managing Committee, Government Primary School Kandi Kachhara, P.O. Balichowki, District Mandi (H.P.).
3. The Secretary, School Management Committee, Kandi Kochhra, P.O. Kalhani, Sub Tehsil Balichowki, District Mandi (H.P.).
...*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For Respondent No.1 : Shri Anil Sharma, Ld. Dy. D.A.
: Respondents no. 2 &3 already
exparte.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of services of Smt. Punni Devi w/o Shri Chamaru Ram, r/o Village Kandi Kochhra, P.O. Kalhani, Sub Tehsil Balichowki, District Mandi, H.P. who was employed as mid day meal cook/worker during January, 2012 by (i) the Headmaster, Government Primary School, Kandi Kochhra, P.O. Kalhani, Sub Tehsil Balichowki, District Mandi, H.P. (ii) the President, School Managing Committee, Government Primary Kandi Kochhra, P.O. Kalhani, Sub Tehsil Balichowki, District Mandi, H.P. (iii) the Secretary, School Management Committee, Kandi Kochhra, P.O. Kalhani, Sub Tehsil Balichowki, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act,

1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?"

2. It may be stated here that the petitioner appeared through Shri Narender Pal Sharma, Advocate but later on neither Shri Narender Pal Sharma nor the petitioner appeared and therefore notice issued to the petitioner for 19.5.2022 which was served upon her through her son despite this the petitioner did not appear before this Court and since there is neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 73/2018
Date of Institution : 23.07.2018
Date of Decision : 23.05.2022

Shri Murad Baksh s/o Shri Naseebdeen, r/o V.P.O. Talwara, Tehsil Mukerian, District Hoshiarpur, Punjab. ...Petitioner.

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III, Industrial Area, Sansarpur Terrace, District Kangra (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ
Date: 2022.05.23

17:01:47 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.

For the Respondent : Respondent already exparte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of services of Shri Murad Baksh s/o Shri Naseebdeen, r/o V.P.O. Talwara, Tehsil Mukerian, District Hoshiarpur, Punjab during 24-10-2017 (as alleged by workman) by the Managing Director, M/s Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has come with the case that he had joined as turner on 01.04.2008 and worked for 240 days in every calendar year till 23.10.2017 when his services were orally terminated w.e.f. 24.10.2017 without following the process of law. It is submitted that the rule of ‘first come last go’ was not complied with and his benefits have also been withheld. On such averments petitioner has prayed for his reinstatement with all consequential benefits.

3. The respondent in his reply has denied the allegations as incorrect and submitted that neither the petitioner was employed at any point of time in the establishment nor the relation of employer/employee remained between them. The petitioner is said to have not come to the court with clean hands and the petition is claimed as merit-less with the prayer that the same be dismissed with costs.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether no relationship of servant and master ever existed between the petitioner and respondent, as alleged? ...*OPR*.
4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? ...*OPR*.
5. Whether the petitioner has no locus standi to file the present case, as alleged? ...*OPR*.

Relief.

6. I have heard learned counsel for the petitioner at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

- Issue No.1 : decided accordingly.
Issue No.2 : decided accordingly.

Issue No.3 : No
 Issue No.4 : No
 Issue No.5 : No

Relief : Petition is partly allowed awarding lump sum compensation of Rs. 50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner examined himself as PW1 and tendered his affidavit Ext.PW1/A. He was also subjected to cross-examination. By way of documentary evidence, he placed on record copy of order dated 31.3.2018 passed by Controlling Authority in gratuity case whereby respondent was ordered to pay the gratuity etc. to the petitioner. When the respondent was directed to lead the evidence on its turn, the learned Advocate appearing for it took adjournments on three four dates and thereafter the learned counsel for the respondent pleaded no instruction. Notice was issued to the respondent and the company was found closed and the respondent was ordered to be heard *exparte* vide order dated 18.02.2022. It is in this background that the reference has been answered.

10. The petitioner in his affidavit Ext.PW1/A has specifically stated about his engagement as a turner in the respondent establishment and termination of his services w.e.f. 24.10.2017. When he was subjected to cross-examination he stood by the test of cross-examination by denying suggestions to the contrary. He admitted that the order Ext. PW1/B was *exparte*. While going through the order it becomes clear that the respondent had not put appearance even before the Controlling Authority under Payment of Gratuity Act, 1972 and the *exparte* order was accordingly passed. The said order is said to be under challenge and it is not attained finality.

11. Once the petitioner had discharged his initial onus by stating on oath and placing on record a copy of order passed by the competent authority under gratuity Act, whereby the respondent was held liable to pay gratuity, *prima-facie* the petitioner had succeeded in establishing the fact that he was a workman of the respondent and had worked in such capacity before his termination as the gratuity is paid only to the workman and not to a stranger. There is no doubt that the order of the competent authority is under challenge but this in itself is not a ground to ignore the order so long it is not set aside. The question arises as to why the respondent has not chosen to contest those proceedings and why the respondent let an adverse order passed against its establishment fully knowing the allegations as well as the consequences that would follow in case the allegations were not met.

12. The respondent once granted an opportunity to lead the evidence to meet the case of the petitioner chose to remain *exparte* before this court also and thus did not refute the case of the petitioner. In case, the petitioner has come up with the cooked up case before this court showing his engagement as a workman in the establishment, the respondent should have come forward and denied it by leading positive evidence to the effect that the petitioner was never engaged in the establishment. Statement of the petitioner recorded on oath is not to be taken lightly when it is not assailed by the respondent by leading evidence on its turn. An adverse inference certainly has to be taken against the respondent to the effect that the respondent had no material with it to prove the defence taken by it. Once there were serious allegations against the respondent, the respondent could not have avoided the battlefield. The respondent could have come forward, led the evidence

and contested the claim petition in order to prove that the petitioner has come up with a cock and bull story regarding his employment as a workman. The officers/managers of the company would have stated on oath regarding the factual position and offered themselves for cross-examination at the hand of the petitioner so that the truth would have come forth. Since the respondent took the decision to not to lead evidence and contested the petition, therefore, the petitioner is not absolved from leading cogent evidence to prove that he was a workman with the respondent. The statement of the petitioner made on oath coupled with the order passed by the competent authority under the Gratuity Act fastening the liability the respondent to pay gratuity amount to the petitioner, are sufficient to hold that the petitioner was a workman and he had worked for 240 days in very year during his engagement before his termination.

13. The disengagement of the petitioner without following the provisions of Section 25-F of the Act has serious consequences and such disengagement has to be taken care of by the courts. It is settled law that when there is violation of Section 25-F of the Act alone, the remedy is not to pass an order of reinstatement but the remedy lies in granting compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions contained in Section 25-F of the Act as he is not a regular employee and does not hold any post. In the case in hand, since there is no violation of section 25 G and Section 25 H, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

14. The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has the locus standi and relationship of servant and master *i.e.* employee and employer has been established as no evidence has been led by the respondent, hence, all the issues are decided against the respondent.

RELIEF

15. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the provisions contained in Section 25-F of the Act have been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of Rs. 50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 58/2018

Date of Institution: 06.06.2018

Date of Decision: 23.05.2022

Shri Satish Kumar s/o Shri Govind Ram, r/o V.P.O. Sansarpur Terrace, Tehsil Jaswan,
District Kangra (H.P.) ...Petitioner.

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III,
Industrial Area, Sansarpur Terrace, District Kangra (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ

Date: 2022.05.23

16:37:02 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.

For the Respondent : Respondent already exparte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Satish Kumar s/o Shri Govind Ram, r/o V.P.O. Sansarpur Terrace, Tehsil Jaswan, District Kangra, H.P. w.e.f. 24-10-2017 (as alleged by workman) by the Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has pleaded in his statement of claim that he joined as helper with the respondent w.e.f. 15.12.2006 and worked as such till 23.10.2017 and completed 240 days in every calendar year. He was allotted employee code and the identity card as well. On 23.10.2017 his services were terminated without following the process of law and benefits including salary were denied to him. On such averments, the petitioner has prayed for his reinstatement and all other consequential benefits.

3. The respondent has resisted and contested the claim and taken the plea that the petitioner has not come to the court with clean hands as the respondent company underwent financial crises and finding it difficult to sustain the production was stopped in August, 2017 as the electricity bill remained unpaid and electricity department disconnected the electricity connection. It is further submitted that the petitioner and other employees were given option to join another

establishment of the respondent at Jalandhar on the wages fixed by the Punjab Government but none opted to join at Jalandhar. It is submitted that when the establishment had stopped working in August, 2017 itself there was no question of the termination of the services of the petitioner on 23.10.2017 as claimed, hence, the petition be dismissed. It is also stated that the petitioner had filed a petition for gratuity before Controlling Authority, Dharamshala which was decided by the Controlling Authority in his favour as *ex parte* against which the respondent had filed appeal which is pending before the Joint Labour Commissioner hence, there is no question of reinstatement. On such averments petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? *...OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? *...OPP.*
3. Whether the petition is not maintainable, as alleged? *...OPR.*
4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? *...OPR.*
5. Whether the petitioner has no locus standi to file the present case, as alleged? *...OPR.*

Relief.

6. The petitioner examined himself as PW1 and tendered some documents on the record he was subjected to cross-examination. The respondent on its turn did not lead the evidence. After availing few opportunities, the learned counsel for the respondent pleaded no instructions. Thereafter a notice was served on the company but none came to represent the company and the respondent was, therefore, ordered heard as *ex parte*. It is in this manner that the present reference is being answered.

7. I have heard learned counsel for the petitioner at length and considered the material on record.

8. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	: decided accordingly.
Issue No.2	: decided accordingly.
Issue No.3	: No
Issue No.4	: No
Issue No.5	: No
Relief	: Petition is partly allowed awarding lump sum compensation of Rs. 50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 5

9. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

10. Bare perusal of the pleadings especially the reply shows that the respondent has not denied the case of the petitioner regarding his engagement as a workman in the establishment. The respondent has come up with the plea that it could not run establishment on account of financial crises and option was given to its employees to join at Jalandhar but none came forward to avail the option. Thus the relation of workman and employer is at least not in dispute from the pleadings of the parties.

11. The petitioner in his affidavit Ext.PW1/A has referred to the averments made in the claim petition. In his statement, the petitioner has tendered on record copy of order dated 31.8.2018 passed by Controlling Authority Ext.PW1/ and the copy of contribution of provident fund as Ext. PW1/C. When the petitioner was subjected to cross-examination he denied that he had himself given up the work. He was further cross-examined wherein he denied the suggestions.

12. The very first question that arises in consideration is whether the company has stopped working in August, 2017 or it worked till 23.10.2017. When the petitioner alleges that his services were terminated on 24.10.2017, the onus certainly was upon the respondent to prove the fact that the factory was non-functional since August 2017. No evidence has led by the respondent in support of the plea, and therefore, the plea is not established. In case the electricity of the establishment was disconnected in August, 2017 the respondent had ample material to prove this fact. Since the respondent voluntarily chose to remain exparte the presumption goes that the respondent did not want to contest the allegations and admitted the correctness thereof. Otherwise, the company could have come forward to meet the allegations leveled against its establishment and proved that it was the petitioner himself who abandoned the work and refused to join at Jalandhar. Since the entire onus was upon the respondent yet none appeared and the onus was thus not discharged.

13. The petitioner has alleged that he had worked for 240 days during each calendar year before his alleged termination. The respondent has denied this fact without leading any evidence to the contrary. The respondent being the employer was in possession of the record. The Officers of the respondent could have been examined to contradict the case of the petitioner. Since the petitioner is admitted to have worked for many years in the respondent establishment in continuity, therefore, it stands established that he has completed 240 days prior to his termination in the calendar year preceding is termination. When it is so then there was a requirement of compliance of the provisions of Section 25-F of the Act as the services of the petitioner could not be terminated without complying the aforesaid provisions of the law. Since the respondent has failed to prove that the services of the petitioner were not terminated, therefore, the plea of the petitioner has to be accepted. It is thus established that the services of the petitioner were terminated on the alleged date without following the process of law. Had the respondent establishment infact offered employment to the petitioner and other workmen at Jalandhar, some documents would have been produced before this court to prove the fact. Not to speak of the documents, the respondent chose to remain exparte and thus failed to meet the case of the petitioner. The petitioner has fully supported the pleadings by stepping in the witness box and stating on oath all those facts. It may be stated here that great sanctity is attached to the oath and whatever has been spoken on oath, the courts can not ignore those facts when there is no counter evidence to falsify the same. Since the respondent has not chosen to lead evidence to prove its case, therefore, there is no reason to not to believe the deposition of the petitioner which has been corroborated by placing certain documents on the record. The case of the petitioner is fully corroborated by the stand taken by the respondent as the employment of the petitioner has not been disputed.

14. Once it has been established that the petitioner has completed 240 days preceding his termination in a calendar year, therefore, compliance of Section 25-F of the Act was mandatory and has not been done in the instant case. If the company has stopped its functioning at Sansarpur Terrace, even then it was for the company to make appropriate arrangements for the petitioner or would have paid him, the compensation as per law as the termination could not have taken place without complying with the provisions of the Act. Since no compensation has been paid, therefore, the petitioner is entitled for relief.

15. The last question to be looked into whether the petitioner can be ordered to be reinstated or not? The respondent although has come up with the plea that company has ceased to work yet no evidence has been led on this aspect. The petitioner, on the other hand, has also not said on oath that the company is still working and workmen junior to him have been retained. There are no allegations of violating of the provisions of Sections 25-G and 25-H of the Act. The only allegations are regarding violation of the provisions of Section 25-F of the Act. Had any junior workman been retained or had any fresh workman been engaged after the termination of the petitioner, the position would have been otherwise. It is settled law that when there is simple violation of Section 25-F of the Act, remedy is not for reinstatement but the remedy is that of compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions contained in Section 25-F of the Act as he is not a regular employee. Otherwise also, a daily wage worker against no post and he can not claim any right of reinstatement, in case there is a violation of Section 25-F of the Act alone. The position is otherwise in case violation of the provisions of Sections 25-G and 25-H of the Act. In the case in hand, since there is no such violation, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has locus standi as no evidence has been led by the respondent hence all the issues are decided against the respondent.

RELIEF

16. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the provisions contained in Section 25-F of the Act has been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of Rs. 50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 61/2018

Date of Institution: 06.06.2018

Date of Decision: 23.05.2022

Shri Sanjeev Kumar s/o Shri Pyar Chand, r/o Village Rori Kori, P.O. Chanour, Tehsil Dehra, District Kangra (H.P.) ...Petitioner.

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III, Industrial Area, Sansarpur Terrace, District Kangra (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ

Date: 2022.05.23

16:36:25 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.

For the Respondent : Respondent already ex parte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Sanjeev Kumar s/o Shri Pyar Chand, r/o Village Rori Kori, P.O. Chanour, Tehsil Dehra, District Kangra, H.P. w.e.f. 24-10- 2017 (as alleged by workman) by the Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has pleaded in his statement of claim that he joined as helper with the respondent w.e.f. 06.4.2007 and worked as such till 23.10.2017 and completed 240 days in every calendar year. He was allotted employee code and the identity card as well. On 23.10.2017 his services were terminated without following the process of law and benefits including salary were denied to him. On such averments, the petitioner has prayed for his reinstatement and all other consequential benefits.

3. The respondent has resisted and contested the claim and taken the plea that the petitioner has not come to the court with clean hands as the respondent company underwent financial crises and finding it difficult to sustain the production was stopped in August, 2017 as the electricity bill remained unpaid and electricity department disconnected the electricity connection. It is further submitted that the petitioner and other employees were given option to join another

establishment of the respondent at Jalandhar on the wages fixed by the Punjab Government but none opted to join at Jalandhar. It is submitted that when the establishment had stopped working in August, 2017 itself there was no question of the termination of the services of the petitioner on 23.10.2017 as claimed, hence, the petition be dismissed. It is also stated that the petitioner had filed a petition for gratuity before Controlling Authority, Dharamshala which was decided by the Controlling Authority in his favour as *ex parte* against which the respondent had filed appeal which is pending before the Joint Labour Commissioner hence, there is no question of reinstatement. On such averments petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? ...*OPR*.
5. Whether the petitioner has no locus standi to file the present case, as alleged? ...*OPR*.

Relief.

6. The petitioner examined himself as PW1 and tendered some documents on the record he was subjected to cross-examination. The respondent on its turn did not lead the evidence. After availing few opportunities, the learned counsel for the respondent pleaded no instructions. Thereafter a notice was served on the company but none came to represent the company and the respondent was, therefore, ordered heard as *ex parte*. It is in this manner that the present reference is being answered.

7. I have heard learned counsel for the petitioner at length and considered the material on record.

8. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1	:	decided accordingly.
Issue No.2	:	decided accordingly.
Issue No.3	:	No
Issue No.4	:	No
Issue No.5	:	No
Relief	:	Petition is partly allowed awarding lump sum compensation of Rs. 50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 5

9. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

10. Bare perusal of the pleadings especially the reply shows that the respondent has not denied the case of the petitioner regarding his engagement as a workman in the establishment. The respondent has come up with the plea that it could not run establishment on account of financial crises and option was given to its employees to join at Jalandhar but none came forward to avail the option. Thus the relation of workman and employer is at least not in dispute from the pleadings of the parties.

11. The petitioner in his affidavit Ext.PW1/A has referred to the averments made in the claim petition. In his statement, the petitioner has tendered on record copy of order dated 31.8.2018 passed by Controlling Authority Ext.PW1/ and the copy of contribution of provident fund as Ext. PW1/C. When the petitioner was subjected to cross-examination he denied that he had himself given up the work. He was further cross-examined wherein he denied the suggestions.

12. The very first question that arises in consideration is whether the company has stopped working in August, 2017 or it worked till 23.10.2017. When the petitioner alleges that his services were terminated on 24.10.2017, the onus certainly was upon the respondent to prove the fact that the factory was non-functional since August 2017. No evidence has led by the respondent in support of the plea, and therefore, the plea is not established. In case the electricity of the establishment was disconnected in August, 2017 the respondent had ample material to prove this fact. Since the respondent voluntarily chose to remain exparte the presumption goes that the respondent did not want to contest the allegations and admitted the correctness thereof. Otherwise, the company could have come forward to meet the allegations leveled against its establishment and proved that it was the petitioner himself who abandoned the work and refused to join at Jalandhar. Since the entire onus was upon the respondent yet none appeared and the onus was thus not discharged.

13. The petitioner has alleged that he had worked for 240 days during each calendar year before his alleged termination. The respondent has denied this fact without leading any evidence to the contrary. The respondent being the employer was in possession of the record. The Officers of the respondent could have been examined to contradict the case of the petitioner. Since the petitioner is admitted to have worked for many years in the respondent establishment in continuity, therefore, it stands established that he has completed 240 days prior to his termination in the calendar year preceding is termination. When it is so then there was a requirement of compliance of the provisions of Section 25-F of the Act as the services of the petitioner could not be terminated without complying the aforesaid provisions of the law. Since the respondent has failed to prove that the services of the petitioner were not terminated, therefore, the plea of the petitioner has to be accepted. It is thus established that the services of the petitioner were terminated on the alleged date without following the process of law. Had the respondent establishment infact offered employment to the petitioner and other workmen at Jalandhar, some documents would have been produced before this court to prove the fact. Not to speak of the documents, the respondent chose to remain exparte and thus failed to meet the case of the petitioner. The petitioner has fully supported the pleadings by stepping in the witness box and stating on oath all those facts. It may be stated here that great sanctity is attached to the oath and whatever has been spoken on oath, the courts can not ignore those facts when there is no counter evidence to falsify the same. Since the respondent has not chosen to lead evidence to prove its case, therefore, there is no reason to not to believe the

deposition of the petitioner which has been corroborated by placing certain documents on the record. The case of the petitioner is fully corroborated by the stand taken by the respondent as the employment of the petitioner has not been disputed.

14. Once it has been established that the petitioner has completed 240 days preceding his termination in a calendar year, therefore, compliance of Section 25-F of the Act was mandatory and has not been done in the instant case. If the company has stopped its functioning at Sansarpur Terrace, even then it was for the company to make appropriate arrangements for the petitioner or would have paid him, the compensation as per law as the termination could not have taken place without complying with the provisions of the Act. Since no compensation has been paid, therefore, the petitioner is entitled for relief.

15. The last question to be looked into whether the petitioner can be ordered to be reinstated or not? The respondent although has come up with the plea that company has ceased to work yet no evidence has been led on this aspect. The petitioner, on the other hand, has also not said on oath that the company is still working and workmen junior to him have been retained. There are no allegations of violating of the provisions of Sections 25-G and 25-H of the Act. The only allegations are regarding violation of the provisions of Section 25-F of the Act. Had any junior workman been retained or had any fresh workman been engaged after the termination of the petitioner, the position would have been otherwise. It is settled law that when there is simple violation of Section 25-F of the Act, remedy is not for reinstatement but the remedy is that of compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions contained in Section 25-F of the Act as he is not a regular employee. Otherwise also, a daily wage worker against no post and he can not claim any right of reinstatement, in case there is a violation of Section 25-F of the Act alone. The position is otherwise in case violation of the provisions of Sections 25-G and 25-H of the Act. In the case in hand, since there is no such violation, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has locus standi as no evidence has been led by the respondent hence all the issues are decided against the respondent.

RELIEF

16. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the provisions contained in Section 25-F of the Act has been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of Rs. 50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 46/2018

Date of Institution: 06.06.2018

Date of Decision: 23.05.2022

Shri Bakhshish s/o Shri Bishambar Dass, r/o Village Pali, P.O. Bhatehar, Tehsil Mukerian,
District Hoshiarpur, Punjab *...Petitioner.*

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III,
Industrial Area, Sansarpur Terrace, District Kangra (H.P.) *....Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ

Date: 2022.05.23

17:01:29 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.
For the Respondent : Respondent already ex parte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of services of Shri Bakhshish s/o Shri Bishambar Dass, r/o Village Pali, P.O. Bhatehar, Tehsil Mukerian, District Hoshiarpur, Punjab during 24-10-2017 (as alleged by workman) by the Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has come with the case that he had joined as turner on 17.04.2007 and worked for 240 days in every calendar year till 23.10.2017 when his services were orally terminated w.e.f. 24.10.2017 without following the process of law. It is submitted that the rule of 'first come last go' was not complied with and his benefits have also been withheld. On such averments petitioner has prayed for his reinstatement with all consequential benefits.

3. The respondent in his reply has denied the allegations as incorrect and submitted that neither the petitioner was employed at any point of time in the establishment nor the relation of employer/employee remained between them. The petitioner is said to have not come to the court with clean hands and the petition is claimed as merit-less with the prayer that the same be dismissed with costs.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether no relationship of servant and master ever existed between the petitioner and respondent, as alleged? ...*OPR*.
4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? ...*OPR*.
5. Whether the petitioner has no locus standi to file the present case, as alleged? ...*OPR*.

Relief.

6. I have heard learned counsel for the petitioner at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No.1 : decided accordingly.

Issue No.2 : decided accordingly.

Issue No.3 : No

Issue No.4 : No

Issue No.5 : No

Relief : Petition is partly allowed awarding lump sum compensation of Rs. 50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner examined himself as PW1 and tendered his affidavit Ext.PW1/A. He was also subjected to cross-examination. By way of documentary evidence, he placed on record

copy of order dated 31.3.2018 passed by Controlling Authority in gratuity case whereby respondent was ordered to pay the gratuity etc. to the petitioner. When the respondent was directed to lead the evidence on its turn, the learned Advocate appearing for it took adjournments on three four dates and thereafter the learned counsel for the respondent pleaded no instruction. Notice was issued to the respondent and the company was found closed and the respondent was ordered to be heard *exparte* vide order dated 18.02.2022. It is in this background that the reference has been answered.

10. The petitioner in his affidavit Ext.PW1/A has specifically stated about his engagement as a turner in the respondent establishment and termination of his services w.e.f. 24.10.2017. When he was subjected to cross-examination he stood by the test of cross-examination by denying suggestions to the contrary. He admitted that the order Ext. PW1/B was *exparte*. While going through the order it becomes clear that the respondent had not put appearance even before the Controlling Authority under Payment of Gratuity Act, 1972 and the *exparte* order was accordingly passed. The said order is said to be under challenge and it is not attained finality.

11. Once the petitioner had discharged his initial onus by stating on oath and placing on record a copy of order passed by the competent authority under gratuity Act, whereby the respondent was held liable to pay gratuity, *prima-facie* the petitioner had succeeded in establishing the fact that he was a workman of the respondent and had worked in such capacity before his termination as the gratuity is paid only to the workman and not to a stranger. There is no doubt that the order of the competent authority is under challenge but this in itself is not a ground to ignore the order so long it is not set aside. The question arises as to why the respondent has not chosen to contest those proceedings and why the respondent let an adverse order passed against its establishment fully knowing the allegations as well as the consequences that would follow in case the allegations were not met.

12. The respondent once granted an opportunity to lead the evidence to meet the case of the petitioner chose to remain *exparte* before this court also and thus did not refute the case of the petitioner. In case, the petitioner has come up with the cooked up case before this court showing his engagement as a workman in the establishment, the respondent should have come forward and denied it by leading positive evidence to the effect that the petitioner was never engaged in the establishment. Statement of the petitioner recorded on oath is not to be taken lightly when it is not assailed by the respondent by leading evidence on its turn. An adverse inference certainly has to be taken against the respondent to the effect that the respondent had no material with it to prove the defence taken by it. Once there were serious allegations against the respondent, the respondent could not have avoided the battlefield. The respondent could have come forward, led the evidence and contested the claim petition in order to prove that the petitioner has come up with a cock and bull story regarding his employment as a workman. The officers/managers of the company would have stated on oath regarding the factual position and offered themselves for cross-examination at the hand of the petitioner so that the truth would have come forth. Since the respondent took the decision to not to lead evidence and contested the petition, therefore, the petitioner is not absolved from leading cogent evidence to prove that he was a workman with the respondent. The statement of the petitioner made on oath coupled with the order passed by the competent authority under the Gratuity Act fastening the liability the respondent to pay gratuity amount to the petitioner, are sufficient to hold that the petitioner was a workman and he had worked for 240 days in very year during his engagement before his termination.

13. The disengagement of the petitioner without following the provisions of Section 25-F of the Act has serious consequences and such disengagement has to be taken care of by the courts. It is settled law that when there is violation of Section 25-F of the Act alone, the remedy is not to pass an order of reinstatement but the remedy lies in granting compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions

contained in Section 25-F of the Act as he is not a regular employee and does not hold any post. In the case in hand, since there is no violation of section 25 G and Section 25 H, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

14. The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has the locus standi and relationship of servant and master i.e. employee and employer has been established as no evidence has been led by the respondent, hence, all the issues are decided against the respondent.

RELIEF

15. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the provisions contained in Section 25-F of the Act have been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of ₹50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 60/2018
Date of Institution: 06.06.2018
Date of Decision: 23.05.2022

Shri Saroop Singh s/o Shri Harbans Lal, r/o Village Dhar, P.O. Talwara, Tehsil Mukerian, District Hoshiarpur, Punjab. ...Petitioner.

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III, Industrial Area, Sansarpur Terrace, District Kangra (H.P.) ...Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ
Date: 2022.05.23

17:02:14 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.
For the Respondent : Respondent already exparte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Saroop Singh s/o Shri Harbans Lal, r/o Village Dhar, P.O. Talwara, Tehsil Mukerian, District Hoshiarpur, Punjab during 24-10-2017 (as alleged by workman) by the Managing Director, M/s Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has come with the case that he had joined as turner on 09.09.2009 and worked for 240 days in every calendar year till 23.10.2017 when his services were orally terminated w.e.f. 24.10.2017 without following the process of law. It is submitted that the rule of 'first come last go' was not complied with and his benefits have also been withheld. On such averments petitioner has prayed for his reinstatement with all consequential benefits.

3. The respondent in his reply has denied the allegations as incorrect and submitted that neither the petitioner was employed at any point of time in the establishment nor the relation of employer/employee remained between them. The petitioner is said to have not come to the court with clean hands and the petition is claimed as merit-less with the prayer that the same be dismissed with costs.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? ...*OPP.*
 2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP.*
 3. Whether no relationship of servant and master ever existed between the petitioner and respondent, as alleged? ...*OPR.*
 4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? ...*OPR.*
 5. Whether the petitioner has no locus standi to file the present case, as alleged? ...*OPR.*
- Relief.

6. I have heard learned counsel for the petitioner at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:-

Issue No.1 : decided accordingly.
 Issue No.2 : decided accordingly.
 Issue No.3 : No
 Issue No.4 : No
 Issue No.5 : No

Relief : Petition is partly allowed awarding lump sum compensation of Rs. 50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The petitioner examined himself as PW1 and tendered his affidavit Ext.PW1/A. He was also subjected to cross-examination. By way of documentary evidence, he placed on record copy of order dated 31.3.2018 passed by Controlling Authority in gratuity case whereby respondent was ordered to pay the gratuity etc. to the petitioner. When the respondent was directed to lead the evidence on its turn, the learned Advocate appearing for it took adjournments on three four dates and thereafter the learned counsel for the respondent pleaded no instruction. Notice was issued to the respondent and the company was found closed and the respondent was ordered to be heard exparte vide order dated 18.02.2022. It is in this background that the reference has been answered.

10. The petitioner in his affidavit Ext.PW1/A has specifically stated about his engagement as a turner in the respondent establishment and termination of his services w.e.f. 24.10.2017. When he was subjected to cross-examination he stood by the test of cross-examination by denying suggestions to the contrary. He admitted that the order Ext. PW1/B was exparte. While going through the order it becomes clear that the respondent had not put appearance even before the Controlling Authority under Payment of Gratuity Act, 1972 and the exparte order was accordingly passed. The said order is said to be under challenge and it is not attained finality.

11. Once the petitioner had discharged his initial onus by stating on oath and placing on record a copy of order passed by the competent authority under gratuity Act, whereby the respondent was held liable to pay gratuity, prima-facie the petitioner had succeeded in establishing the fact that he was a workman of the respondent and had worked in such capacity before his termination as the gratuity is paid only to the workman and not to a stranger. There is no doubt that the order of the competent authority is under challenge but this in itself is not a ground to ignore the order so long it is not set aside. The question arises as to why the respondent has not chosen to contest those proceedings and why the respondent let an adverse order passed against its establishment fully knowing the allegations as well as the consequences that would follow in case the allegations were not met.

12. The respondent once granted an opportunity to lead the evidence to meet the case of the petitioner chose to remain *ex parte* before this court also and thus did not refute the case of the petitioner. In case, the petitioner has come up with the cooked up case before this court showing his engagement as a workman in the establishment, the respondent should have come forward and denied it by leading positive evidence to the effect that the petitioner was never engaged in the establishment. Statement of the petitioner recorded on oath is not to be taken lightly when it is not assailed by the respondent by leading evidence on its turn. An adverse inference certainly has to be taken against the respondent to the effect that the respondent had no material with it to prove the defence taken by it. Once there were serious allegations against the respondent, the respondent could not have avoided the battlefield. The respondent could have come forward, led the evidence and contested the claim petition in order to prove that the petitioner has come up with a cock and bull story regarding his employment as a workman. The officers/managers of the company would have stated on oath regarding the factual position and offered themselves for cross-examination at the hand of the petitioner so that the truth would have come forth. Since the respondent took the decision to not to lead evidence and contested the petition, therefore, the petitioner is not absolved from leading cogent evidence to prove that he was a workman with the respondent. The statement of the petitioner made on oath coupled with the order passed by the competent authority under the Gratuity Act fastening the liability the respondent to pay gratuity amount to the petitioner, are sufficient to hold that the petitioner was a workman and he had worked for 240 days in very year during his engagement before his termination.

13. The disengagement of the petitioner without following the provisions of Section 25-F of the Act has serious consequences and such disengagement has to be taken care of by the courts. It is settled law that when there is violation of Section 25-F of the Act alone, the remedy is not to pass an order of reinstatement but the remedy lies in granting compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions contained in Section 25-F of the Act as he is not a regular employee and does not hold any post. In the case in hand, since there is no violation of section 25 G and Section 25 H, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

14. The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has the *locus standi* and relationship of servant and master i.e. employee and employer has been established as no evidence has been led by the respondent, hence, all the issues are decided against the respondent.

RELIEF

15. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the provisions contained in Section 25-F of the Act have been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of ₹50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 62/2018
Date of Institution: 06.06.2018
Date of Decision: 23.05.2022

Shri Sarbjeet Singh s/o Shri Ramel Singh, r/o Village Jandhor, Tehsil Jaswan, District Kangra (H.P.)
...*Petitioner.*

Versus

The Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase- III, Industrial Area, Sansarpur Terrace, District Kangra (H.P.)
...*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

Digitally signed by HANSRAJ
Date: 2022.05.23

16:36:45 IST

For the Petitioner : Shri K.K. Chaudhary, Ld. Adv.

For the Respondent : Respondent already ex parte

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of services of Shri Sarbjeet Singh s/o Shri Ramel Singh, r/o Village Jandhor, Tehsil Jaswan, District Kangra, H.P. during 24-10-2017 (as alleged by workman) by the Managing Director, M/S Horizon Polymers, Plot No.192 to 195, 212 to 219, Phase-III, Industrial Area, Sansarpur Terrace, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has pleaded in his statement of claim that he joined as helper with the respondent w.e.f. 01.8.2007 and worked as such till 23.10.2017 and completed 240 days in every calendar year. He was allotted employee code and the identity card as well. On 23.10.2017 his

services were terminated without following the process of law and benefits including salary were denied to him. On such averments, the petitioner has prayed for his reinstatement and all other consequential benefits.

3. The respondent has resisted and contested the claim and taken the plea that the petitioner has not come to the court with clean hands as the respondent company underwent financial crises and finding it difficult to sustain the production was stopped in August, 2017 as the electricity bill remained unpaid and electricity department disconnected the electricity connection. It is further submitted that the petitioner and other employees were given option to join another establishment of the respondent at Jalandhar on the wages fixed by the Punjab Government but none opted to join at Jalandhar. It is submitted that when the establishment had stopped working in August, 2017 itself there was no question of the termination of the services of the petitioner on 23.10.2017 as claimed, hence, the petition be dismissed. It is also stated that the petitioner had filed a petition for gratuity before Controlling Authority, Dharamshala which was decided by the Controlling Authority in his favour as *ex parte* against which the respondent had filed appeal which is pending before the Joint Labour Commissioner hence, there is no question of reinstatement. On such averments petition be dismissed.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 17.10.2019 for determination:-

1. Whether the termination of the services of the petitioner by the respondent during 24-10-2017 is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has not approached this Court with clean hands and has suppressed the material facts, as alleged? ...*OPR*.
5. Whether the petitioner has no locus standi to file the present case, as alleged? ...*OPR*.

Relief.

6. The petitioner examined himself as PW1 and tendered some documents on the record he was subjected to cross-examination. The respondent on its turn did not lead the evidence. After availing few opportunities, the learned counsel for the respondent pleaded no instructions. Thereafter a notice was served on the company but none came to represent the company and the respondent was, therefore, ordered heard as *ex parte*. It is in this manner that the present reference is being answered.

7. I have heard learned counsel for the petitioner at length and considered the material on record.

8. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No.1 : decided accordingly.

Issue No.2	: decided accordingly.
Issue No.3	: No
Issue No.4	: No
Issue No.5	: No
Relief	: Petition is partly allowed awarding lump sum compensation of ₹50,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 5

9. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

10. Bare perusal of the pleadings especially the reply shows that the respondent has not denied the case of the petitioner regarding his engagement as a workman in the establishment. The respondent has come up with the plea that it could not run establishment on account of financial crises and option was given to its employees to join at Jalandhar but none came forward to avail the option. Thus the relation of workman and employer is at least not in dispute from the pleadings of the parties.

11. The petitioner in his affidavit Ext.PW1/A has referred to the averments made in the claim petition. In his statement, the petitioner has tendered on record copy of order dated 31.8.2018 passed by Controlling Authority Ext.PW1/ and the copy of contribution of provident fund as Ext. PW1/C, copy of demand notice Ext.PW1/D, copy of experience certificate Ext.PW1/E. When the petitioner was subjected to cross-examination he denied that he had himself given up the work. He was further cross-examined wherein he denied the suggestions.

12. The very first question that arises in consideration is whether the company has stopped working in August, 2017 or it worked till 23.10.2017. When the petitioner alleges that his services were terminated on 24.10.2017, the onus certainly was upon the respondent to prove the fact that the factory was non-functional since August 2017. No evidence has led by the respondent in support of the plea, and therefore, the plea is not established. In case the electricity of the establishment was disconnected in August, 2017 the respondent had ample material to prove this fact. Since the respondent voluntarily chose to remain exparte the presumption goes that the respondent did not want to contest the allegations and admitted the correctness thereof. Otherwise, the company could have come forward to meet the allegations leveled against its establishment and proved that it was the petitioner himself who abandoned the work and refused to join at Jalandhar. Since the entire onus was upon the respondent yet none appeared and the onus was thus not discharged.

13. The petitioner has alleged that he had worked for 240 days during each calendar year before his alleged termination. The respondent has denied this fact without leading any evidence to the contrary. The respondent being the employer was in possession of the record. The Officers of the respondent could have been examined to contradict the case of the petitioner. Since the petitioner is admitted to have worked for many years in the respondent establishment in continuity,

therefore, it stands established that he has completed 240 days prior to his termination in the calendar year preceding is termination. When it is so then there was a requirement of compliance of the provisions of Section 25-F of the Act as the services of the petitioner could not be terminated without complying the aforesaid provisions of the law. Since the respondent has failed to prove that the services of the petitioner were not terminated, therefore, the plea of the petitioner has to be accepted. It is thus established that the services of the petitioner were terminated on the alleged date without following the process of law. Had the respondent establishment infact offered employment to the petitioner and other workmen at Jalandhar, some documents would have been produced before this court to prove the fact. Not to speak of the documents, the respondent chose to remain *exparte* and thus failed to meet the case of the petitioner. The petitioner has fully supported the pleadings by stepping in the witness box and stating on oath all those facts. It may be stated here that great sanctity is attached to the oath and whatever has been spoken on oath, the courts can not ignore those facts when there is no counter evidence to falsify the same. Since the respondent has not chosen to lead evidence to prove its case, therefore, there is no reason to not to believe the deposition of the petitioner which has been corroborated by placing certain documents on the record. The case of the petitioner is fully corroborated by the stand taken by the respondent as the employment of the petitioner has not been disputed.

14. Once it has been established that the petitioner has completed 240 days preceding his termination in a calendar year, therefore, compliance of Section 25-F of the Act was mandatory and has not been done in the instant case. If the company has stopped its functioning at Sansarpur Terrace, even then it was for the company to make appropriate arrangements for the petitioner or would have paid him, the compensation as per law as the termination could not have taken place without complying with the provisions of the Act. Since no compensation has been paid, therefore, the petitioner is entitled for relief.

15. The last question to be looked into whether the petitioner can be ordered to be reinstated or not? The respondent although has come up with the plea that company has ceased to work yet no evidence has been led on this aspect. The petitioner, on the other hand, has also not said on oath that the company is still working and workmen junior to him have been retained. There are no allegations of violating of the provisions of Sections 25-G and 25-H of the Act. The only allegations are regarding violation of the provisions of Section 25-F of the Act. Had any junior workman been retained or had any fresh workman been engaged after the termination of the petitioner, the position would have been otherwise. It is settled law that when there is simple violation of Section 25-F of the Act, remedy is not for reinstatement but the remedy is that of compensation as the workman, if reinstated, by the court can be again terminated by employer after complying with the provisions contained in Section 25-F of the Act as he is not a regular employee. Otherwise also, a daily wage worker against no post and he can not claim any right of reinstatement, in case there is a violation of Section 25-F of the Act alone. The position is otherwise in case violation of the provisions of Sections 25-G and 25-H of the Act. In the case in hand, since there is no such violation, therefore, the petitioner cannot claim reinstatement as a matter of right and he is entitled for compensation which is liable to be assessed by this court. Issues no.1 and 2 are decided accordingly.

The claim petition is held as maintainable as the petitioner is proved to have approached the court with clean hands and has *locus standi* as no evidence has been led by the respondent hence all the issues are decided against the respondent.

RELIEF

16. In view of my above discussions, the petition succeeds partly and it is held that the services of the petitioner were illegally terminated w.e.f. 24.10.2017 by the respondent and the

provisions contained in Section 25-F of the Act has been violated. It is further held that the petitioner shall be entitled to receive compensation to the tune of ₹50,000/- (Rupees Fifty thousand only) from the respondent, which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 148/2017
Date of Institution : 21.06.2017
Date of Decision : 24.5.2022

Smt. Geeta Devi w/o Late Shri Mangal Singh, r/o Village Ropri, P.O. Bhareri, Tehsil
Bhoranj, District Hamirpur (H.P.)*Petitioner.*

Versus

1. The Employer/Branch Manager, Kamuna Credit Co- operative Society Ltd., VPO
Bhareri, Tehsil Bhoranj, District Hamirpur (H.P.)

2. The Employer/Managing Director, Kamuna Credit Co- operative Society, Limited,
Aishwarya Plaza, Space 2, Near Purania Chauraha, Alganj, Lucknow, U.P.*Respondents.*

Digitally signed by HANSRAJ

Date: 2022.05.24

14:15:48 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : Ms. Priyanka Sharma, Legal Aid Advocate
For the Respondent No.1 : Sh. Phool Chand, Branch Manager in person
For the respondent No.2 : None

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether termination of the services of Smt. Geeta Devi w/o Late Shri Mangal Singh, r/o Village Ropri, P.O. Bhareri, Tehsil Bhoranj, District Hamirpur, H.P. w.e.f. 01-05-2016 by (i) the Employer/Branch Manager, Kamuna CreditCo-operative Society Limited, V.P.O. Bhareri, Tehsil Bhoranj, District Hamirpur, H.P. (work office) (ii) the Employer/Managing Director, Kamuna Credit Co-operative Society Limited, Aishwarya Plaza, Space 2, Near Purania Chauraha, Alganj, Lucknow, U.P. (corporate office), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers/management?”

2. The petitioner who was being represented by Legal Aid Counsel, has filed the claim on the averments that she was appointed as Sweeper in the respondent Branch on 26.8.2014 at monthly salary of Rs.3,000/- per month and she had been discharging her duties with sincerity till her services were orally terminated. According to her, the cashier of the Branch causing mental harassment to the petitioner for one or other reason and she was forced to work beyond her duties hours and threatened of the dire consequences. She was asked to not to attend her job w.e.f. 30.4.2016 and thus the provisions of the Act were violated. She made complaint to the management but nothing was done. On such averments she prayed for reinstatement and other consequential benefits.

3. One of the respondent appeared and has filed a written application stating therein that he resigned from the respondent establishment and has no connection whatsoever with the same. He has stated that he was himself aggrieved.

4. Ms. Priyanka Sharma, Legal Aid Counsel for the petitioner on 20.5.2022 submitted that the petitioner was not willing to pursue the reference and the same be disposed off accordingly. Her statement has been recorded separately. Thus no evidence has been led by the petitioner in support of the allegations leveled by her. When there no evidence in support of the the averments made in the petition, the petition fails and the reference has to be answered in negative.

5. In view of my above discussions, claim petition merits dismissal and is accordingly dismissed as the petitioner has failed to prove the allegation by leading evidence as well as in this regard the Legal Aid Counsel for the petitioner has made separate statement. Thus, in the aforesaid background, the reference is answered in negative. Parties are left to bear their costs.

6. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 24th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 105/2018
Date of Institution : 29.12.2018

Date of Decision : 24.5.2022

The Vice President, Bhartiya Kamgar Karamchari Mahasangh (BKKM), c/o 232/2/3, Jail Road, Mandi (H.P.)
....*Petitioner.*

Versus

The Employer, Abbott Group of Companies i.e. Abbott India Limited Abbott Healthcare(P) Limited, Regd. Office 4, Corporate Part, Sion Trombay Road, Chembur, Mumbai, Maharashtra, India.
....*Respondent.*

Digitally signed by HANSRAJ

Date: 2022.05.24

14:16:08 IST

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner	: None for the petitioner
For the Respondent	: Sh. R.K. Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether miscellaneous demands raised vide demand notice dated 07-06-2017 (copy enclosed) by the Vice President, Bhartiya Kamgar Karamchari Mahasangh (BKKM), C/O 232/2/3, Jail Road, Mandi, H.P. to be fulfilled by the Employer, Abbott Group of Companies i.e. Abbott India Limited Abbott Healthcare (P) Limited, Regd. Office 4, Corporate Part, Sion Trombay Road, Chembur, Mumbai, Maharashtra, India, are legal and justified and maintainable? If yes, what relief and benefits the above workers are entitled to by the above employer/management?”

2. On receipt of the reference the union was summoned through its Vice President but none appeared on any date. Several attempts were made to serve the union it was reported time and again that such union was not existing therefore, service by way of affixation on the given address was ordered but none has appeared on behalf of the union.

3. It may be stated here that as per the earlier order of this court a notice was issued to the petitioner union for 20.5.2022 which was served upon through affixation. Despite of this, the petitioner union did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

4. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 24th day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 34/2020
Date of Institution : 02.03.2020
Date of Decision : 31.05.2022

Shri Vipen Singh s/o Shri Himmat Singh, r/o Village Baili, P.O. Rajera, Tehsil & District Chamba (H.P.)*Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba (H.P.)

2. The Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba (H.P.)*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For Respondent No.1 : Smt. Pooja Sharma, Ld. Adv.
For Respondent No.2 : Smt. Himakshi Gautam, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Vipen Singh s/o Shri Himmat Singh r/o Village Baili, P.O. Rajera, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. It may be stated here that the notice was issued to the petitioner for 26.5.2022 which was served upon him through his uncle who is residing in the joint family. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 33/2020
Date of Institution : 02.03.2020
Date of Decision : 31.05.2022

Shri Dinesh s/o Shri Hem Raj, r/o Village Jukhrari, P.O. Karian, Tehsil & District Chamba
(H.P.)*Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital,
Chamba, District Chamba (H.P.)

2. The Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal
Nehru Medical College & Hospital Chamba, District Chamba (H.P.)*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For Respondent No.1 : Smt. Pooja Sharma, Ld. Adv.
For Respondent No.2 : Smt. Himakshi Gautam, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether the termination of services of Shri Dinesh S/O Shri Hem Raj, R/O Village Jukhrari, P.O. Karian, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?”

2. It may be stated here that the notice was issued to the petitioner for 26.5.2022 which was served upon him through his wife. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ)
Presiding Judge,

Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 531/2016
Date of Institution : 23.08.2016
Date of Decision : 31.05.2022

Shri Kuldeep Raj s/o Shri Prem Lal, r/o Village Ghangeet, P.O. Karyas, Tehsil Pangi,
District Chamba (H.P.)*Petitioner.*

Versus

The Executive Engineer, HPPWD Division Pangi at Killar, Tehsil Pangi, District Chamba
(H.P.)*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Sh. Kuldeep Raj S/O Sh. Prem Lal Village Ghangeet P.O. Karyas Tehsil Pangi Distt. Chamba H.P from 9/2004 by the Executive Engineer, HPPWD Division, Killar (Pangi) Tehsil Pangi District Chamba, H.P. who had worked as beldar on daily wages basis only for 106 days during the year 1994, and has raised his industrial dispute vide demand notice dated 18/1/2013 after more than 8 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period during the year 1994 and delay of more than 8 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. It may be stated here that the petitioner appeared through Shri Inder Singh Jaryal, Authorized Representative for the first time on 09.09.2021 but later on neither Shri Inder Singh Jaryal nor the petitioner appeared, and therefore, notice was issued to the petitioner for 26.5.2022 which was personally served upon him. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 346/2016
Date of Institution : 26.05.2016
Date of Decision : 31.05.2022

Miss Guddi d/o Shri Suba Ram, r/o Village Thandal, P.O. Purthi, Tehsil Pangi, District
Chamba (H.P.)*Petitioner.*

Versus

The Executive Engineer, Killar Division H.P.P.W.D. Killar, Tehsil Pangi, District Chamba
(H.P.)*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) :

“Whether alleged termination of services of Miss Guddi d/o Shri Suba Ram, r/o Village Thandal, P.O. Purthi, Tehsil Pangi, District Chamba, H.P. during year, September 2004 by the Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P., who had worked as beldar on daily wages basis and has raised her industrial dispute after more than 7 years via demand notice dated nil-received in the Labour Office Chamba on 29-05-2012, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 110 days, 76 days in the years 2003 and 2004 respectively and delay of more than 7 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. It may be stated here that the petitioner appeared through Shri Inder Singh Jaryal, Authorized Representative initially but later on neither Shri Inder Singh Jaryal nor the petitioner appeared, and therefore, notice was issued to the petitioner for 26.5.2022 which was served upon her through her son. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 168/2016
Date of Institution : 17.03.2016
Date of Decision : 31.05.2022

Smt. Naini Devi w/o Shri Bhag Chand, r/o Village Kuthal, P.O. Sach, Tehsil Pangi, District Chamba (H.P.)
.....*Petitioner.*

Versus

The Executive Engineer, HPPWD Division, Tehsil Pangi, District Chamba (H.P.)
.....*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner

For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Smt. Naini Devi w/o Shri Bhag Chand r/o Village Kuthal, P.O. Sach, Tehsil Pangi, District Chamba, H.P. from 2004, by the Executive Engineer, H.P.P.W.D. Division, Tehsil Pangi, District Chamba, H.P. who had worked as beldar on daily wages basis only for 145 days, 60 days, 116 days, 63 days, 112 days, 122.5 days and 99 days, during the year 1997, 1998, 2000, 2002, 2002, 2003 and 2004 and had raised her industrial dispute vide demand notice dated 3/5/2012, after delay of more than 8 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, keeping in view of working period as mentioned above and delay of more than 12 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. It may be stated here that the petitioner appeared through Shri Inder Singh Jaryal, Authorized Representative initially but later on neither Shri Inder Singh Jaryal nor the petitioner appeared, and therefore, notice was issued to the petitioner for 26.5.2022 which was served upon

her through her nephew who is residing under the same roof as per report. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT- CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 398/2016
Date of Institution : 16.06.2016
Date of Decision : 31.05.2022

Smt. Man Dei w/o Shri Kedar Nath, r/o Village Kuthal, P.O. Sach, Tehsil Pangi, District Chamba (H.P.) *....Petitioner.*

Versus

The Executive Engineer, HPPWD Division Killar, Tehsil Pangi, District Chamba (H.P.) *....Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short):

“Whether alleged termination of services of Smt. Man Dei w/o Sh. Kedar Nath Village Kuthal P.O. Sach Tehsil Pangi Distt. Chamba H.P. from 10/1999 by the Executive Engineer, HPPWD Division, Killar, (Pangi) Tehsil Pangi District Chamba, H.P. who had worked as beldar on daily wages basis only for 51 days during the year 1998 to 1999 and has raised her industrial dispute vide demand notice dated 23/8/2012 after more than 13 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period mentioned as above and

delay of more than 13 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. It may be stated here that the petitioner appeared through Shri Inder Singh Jaryal, Authorized Representative initially but later on neither Shri Inder Singh Jaryal nor the petitioner appeared, and therefore, notice was issued to the petitioner for 26.5.2022 which was personally served upon her. Despite of this, the petitioner did not appear before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 31st day of May, 2022.

Sd/-
(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

राजस्व विभाग

अधिसूचना

शिमला-02, 10 अगस्त, 2022

संख्या राजस्व-डी(ए) 1-3/2022-(सिरमौर).—हिमाचल प्रदेश के राज्यपाल की यह राय है कि लोक हित में ऐसा करना आवश्यक और समीचीन है कि जिला सिरमौर, हिमाचल प्रदेश में एक नई उप-तहसील खोडोंवाला सृजित की जाए, ताकि नजदीक के गावों के लोगों को बेहतर सेवाएं उपलब्ध करवाई जा सकें और जिससे उनको होने वाली किसी असुविधा से निवारित किया जा सके तथा बेहतर प्रशासनिक नियंत्रण हो सके;

अतः हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश भू-राजस्व अधिनियम, 1954 (1954 का अधिनियम संख्यांक 6) की धारा 6 और रजिस्ट्रीकरण अधिनियम, 1908 (1908 का अधिनियम संख्यांक 16) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जिला सिरमौर, हिमाचल प्रदेश में तहसील पांवटा साहिब के प्रशासनिक नियंत्रण के अधीन निम्न स्तम्भ संख्या 6 में दर्शाए गए 5 पटवार वृत्तों से गठित एक नई उप-तहसील खोडोंवाला, जिसका मुख्यालय खोडोंवाला में होगा, का तुरन्त प्रभाव से सृजन करते हैं :-

उप-तहसील का नाम	मुख्यालय	वर्तमानतः तहसील पांवटा साहिब में सम्मिलित पटवार वृत्तों के नाम	उप-मण्डल का नाम	जिला	नई उप-तहसील में सम्मिलित किए जाने वाले पटवार वृत्त
1	2	3	4	5	6
खोडोंवाला	खोडोंवाला	पांवटा साहिब तारूवाला	पांवटा साहिब	सिरमौर	गोरखुवाल मानपुर देवडा

देवीनगर	भगानी
गोंदपुर	खोदरी
अजोली	मोहकमपुर नवाडा
छछेती	
शिवपुर	
पुरुवाला	
पातलियों	
भाटावाली	
टोका नागला	
बाएकुंआ	
शमशेरपुर	
गोरखूवाल	
मानपुर देवडा	
भगानी	
खोदरी	
मोहकमपुर नवाडा	
बनोर	
शिवा रूदाना	
तोरुभैला	
राजपुर	
डांडा	

आदेश द्वारा,

ओंकार चन्द शर्मा,
प्रधान सचिव एवं वित्तायुक्त (राजस्व)।

[Authoritative English text of this Department Notification No. Rev-D(A)1-3/2022-(SMR), dated 10-08-2022 as required under clause (3) of Article 348 of the Constitution of India].

REVENUE DEPARTMENT

NOTIFICATION

Shimla-02, the 10th August, 2022

No. Rev-D(A) 1-3/2022-(SMR).—WHEREAS, the Governor of Himachal Pradesh is of the opinion that it is necessary and expedient in the public interest to create a new Sub-Tehsil Khoronwala in District Sirmaur, Himachal Pradesh, so as to provide better services to the people of

nearby villages and to avoid any inconvenience being faced by them and to have better administrative control;

NOW, THEREFORE, in exercise of the powers conferred by Section 6 of the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954) and Section 5 of the Registration Act, 1908 (Act No. 16 of 1908), the Governor of Himachal Pradesh is pleased to create a new Sub-Tehsil Khoronwala with its headquarter at Khoronwala under administrative control of Tehsil Paonta Sahib in District Sirmaur, Himachal Pradesh, consisting of 5 Patwar Circles shown in column No.6 below, with immediate effect:—

Name of the Sub-Tehsil	Head Quarter	Name of Patwar Circles Presently included in Tehsil Paonta Sahib	Name of Sub-Division	District	Patwar Circle to be included in new Sub-Tehsil
1	2	3	4	5	6
Khoronwala	Khoronwala	Paonta Sahib	Paonta Sahib	Sirmaur	Gorkhuwala
		Taruwala			Manpur Devra
		Devinagar			Bhagani
		Gondpur			Khodari
		Ajoli			Mohakampur-Nawada
		Chhachheti			
		Shivpur			
		Puruwala			
		Pataliyon			
		Bhatanwali			
		Toka Nagla			
		Bainkuan			
		Shamsherpur			
		Gorkhuwala			
		Manpur Dewra			
		Bhagani			
		Khodari			
		Mohakampur Nawada			
		Banor			
		Shiva Rudana			
		Toru Bhailla			
		Rajpur			
		Danda			

By order,

ONKAR CHAND SHARMA,
Principal Secretary-cum-FC (Revenue).

राजस्व विभाग

अधिसूचना

शिमला-02, 22 अगस्त, 2022

संख्या राजस्व-घ(एफ)4-3/2018-पार्ट(कांगड़ा) .—हिमाचल प्रदेश भू-अभिलेख नियमावली, 1992 के पैरा 3.17 एवम् 3.18 में वर्णित/निर्दिष्ट प्रावधानों/मानकों में छूट देते हुए राज्यपाल, हिमाचल प्रदेश उप-तहसील कोटला, जिला कांगड़ा के अन्तर्गत पटवार वृत्त कोटला व भाली का विघटन/पुनर्गठन करके 2 नये पटवार वृत्त सोलघा (भटोली) तथा जांगल (सियूहणी) का अनुलग्नक 'क' में दिये गए विवरण अनुसार खोलने/सृजन करने का सहर्ष आदेश देते हैं। इस पटवार वृत्त हेतु एक-एक पद पटवारी वेतनमान मु0 20,200-64000/- (Level-3), मांग संख्या: 5, मुख्य शीर्ष-2029-00-103-04 (गैर-योजना) एवं एक-एक पद अंशकालिक कार्यकर्ता (Part time worker) के सृजन की भी स्वीकृति प्रदान की जाती है।

आदेश द्वारा,

ओंकार चन्द शर्मा,
प्रधान सचिव एवं वित्तायुक्त (राजस्व)।

अनुबन्ध- 'क'

नव सृजित पटवार वृत्त सोलघा (भटोली) की स्थिति

Name of Patwar Circle	Sl. No.	Name of Mahal & Hadbast No.	Total area in Hectare	Cultivated area in Hectares	Khasra No.	No. of Khatauni Holdings	Assessment of land Revenue
Soldha (Bhatoli)	1.	Soldha (223)	171	60	1373	446	668
	2.	Laliyar (226)	107	36	534	214	225
	3.	Dhar (227)	442	29	658	87	191
	4.	Bhaloon (224)	180	62	1171	432	538
	5.	Bhatoli (222)	58	40	588	170	211
	6.	Bharil (221)	240	48	1188	326	293
	7.	Reserve Jangal Soldha (225)	105	0	6	1	0
		Total..	1303	275	5518	1676	2126

नव सृजित पटवार वृत्त जांगल (सियूहणी) की स्थिति

Name of Patwar Circle	Sl. No.	Name of Mahal & Hadbast No.	Total area in Hectare	Cultivated area in Hectares	Khasra No.	No. of Khatauni Holdings	Assessment of land Revenue
Jangal (Sihuni)	1.	Jangal (240)	201	66	908	307	384
	2.	Bag (241)	146	60	895	271	365
	3.	Dul (243)	75	12	226	72	57
	4.	Tharu (242)	113	34	673	174	229

5.	Sihuni (239)	154	39	1280	373	289
6.	Dugli (244)	120	17	524	116	77
7.	Laharan (248)	105	13	302	73	196
8.	Chanani (249)	136	22	398	63	106
9.	Sirman (247)	159	25	600	184	21
Total..		1209	288	5806	1633	1824

नये पटवार वृत्त सोलघा (भटोली) तथा जांगल (सियूहणी) के सृजन उपरान्त पटवार वृत्त कोटला की स्थिति:

Sl. No.	After re-organization Name of remaining Mahals & Hadbast No. in Patwar Circle Kotla	Total area in Hectare	Cultivated area in Hectares	Khasra No.	No. of Khatauni Holdings	Assessment of land Revenue
1.	Balah (219)	398	73	1632	385	435
2.	Baded (218)	37	10	226	35	56
3.	Reserve Jangal Balah (217)	145	0	7	2	0
4.	Balwar (271)	99	9	309	65	69
5.	Nera (220)	45	10	252	78	61
6.	Anuhi (268)	340	86	2044	597	540
7.	Reserve Jangal Anuhi (269)	106	1	6	3	2
8.	Lutehar (270)	95	23	434	130	139
9.	Keharana urf Bishanpura (272)	34	11	85	23	57
Total..		1299	223	4995	1318	1359

नये पटवार वृत्त सोलघा (भटोली) तथा जांगल (सियूहणी) के सृजन उपरान्त पटवार वृत्त भाली की स्थिति:

Sl. No.	After re-organization Name of remaining Mahals & Hadbast No. in Patwar Circle Bhali	Total area in Hectare	Cultivated area in Hectares	Khasra No.	No. of Khatauni Holdings	Assessment of land Revenue
1.	Jol (250)	244	51	1030	207	289
2.	Jhakri (251)	28	8	130	44	25
3.	Sar (235)	75	3	133	38	21
4.	Bohrka (234)	503	85	1599	401	506
5.	Takhinar (236)	252	74	1633	448	448
6.	Bhaniari (238)	216	44	812	197	282
7.	Chichar (237)	124	29	1020	324	162
Total..		1542	294	6357	1659	1733

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001**NOTIFICATION***Shimla, the 12th August, 2022*

No. HHC/GAZ/14-99/80-III.—The Hon'ble High Court of Himachal Pradesh, in exercise of the powers vested in it under Article 235 of the Constitution of India read-with Rule 10(3) of the Himachal Pradesh Judicial Service Rules, 2004, has been pleased to extend the probation period of following members of H.P. Judicial Service in the cadre of Civil Judge for a further period of one year:—

S. No.	Name of the Judicial Officer
1.	Ms. Chunauti Sagroli, Civil Judge-cum-JMFC-I, Solan, H.P.
2.	Ms. Parveen Lata, Civil Judge-cum-JMFC-VII, Shimla, H.P.
3.	Ms. Divya Sharma, Civil Judge-cum-JMFC-II, Kasauli, H.P.
4.	Sh. Shavik Ghai, Civil Judge-cum-JMFC-III, Hamirpur, H.P.
5.	Ms. Anulekha Tanwar, Civil Judge-cum-JMFC-IV, Hamirpur, H.P.
6.	Ms. Megha Sharma, Civil Judge-cum-JMFC-VI, Shimla, H.P.
7.	Ms. Sheetal Gupta, Civil Judge-cum-JMFC-II, Paonta Sahib, H.P.
8.	Ms. Ritu Sinha, Civil Judge-cum-JMFC-II, Palampur, H.P.
9.	Ms. Sharuti Bansal, Civil Judge-cum-JMFC-VIII, Shimla, H.P.
10.	Ms. Priyanka Devi, Civil Judge-cum-JMFC, Shillai, H.P.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001**NOTIFICATION***Shimla, the 8th August, 2022*

No. HHC/GAZ/14-293/2006.—The Hon'ble High Court of Himachal Pradesh, in exercise of the powers vested in it under Article 235 of the Constitution of India read-with Rule 12 of the Himachal Pradesh Judicial Service Rules, 2004, has been pleased to order the confirmation of following members of H.P. Judicial Service in the cadre of Sr. Civil Judges:—

Sl. No.	Name of the officer
1.	Sh. Amardeep Singh, Secretary, District Legal Services Authority, Kullu and L&S at Kullu, H.P.
2.	Sh. Sandeep Singh Sihag, Sr. Civil Judge-cum-ACJM, Una, H.P.
3.	Ms. Divya Jyoti Patial, Sr. Civil Judge-cum-ACJM, Sundernagar, H.P.
4.	Sh. Nikhil Aggarwal, Sr. Civil Judge-cum-ACJM-II, Shimla, H.P.
5.	Sh. Hakikat, Central Project Co-ordinator, High Court of H.P., Shimla.

6.	Ms. Akshi Sharma, Sr. Civil Judge-cum-ACJM, Mandi, H.P.
7.	Sh. Aslam Beg, Sr. Civil Judge-cum-ACJM, Theog, H.P.
8.	Ms. Neha Sharma, Sr. Civil Judge-cum-ACJM, Ghumarwin, H.P.
9.	Ms. Manisha Goyal, Sr. Civil Judge-cum-ACJM, Rohru, H.P.
10.	Ms. Upasna Sharma, Sr. Civil Judge-cum-ACJM, Paonta Sahib, H.P.
11.	Sh. Vishal Bhamontra, Sr. Civil Judge-cum-ACJM, Palampur, H.P.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Shimla, the 16th August, 2022

No. HHC/GAZ/14-53/74-VI.—In exercise of the powers vested under Article 229 of the Constitution of India and all other powers enabling him in this behalf, Hon'ble the Chief Justice has been pleased to post Shri Arvind Malhotra, District and Sessions Judge as Registrar General, High Court of H.P., Shimla.

BY ORDER OF HON'BLE

THE CHIEF JUSTICE.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Shimla, the 8th August, 2022

No. HHC/GAZ/1-15/73-V.—The High court of Himachal Pradesh has been pleased to grant Selection Grade of Rs. 57700-1230-58930-1380-67210-1540-70290 to Sh. Yogesh Jaswal, Registrar (Rules), High Court of H.P., Shimla; Sh. Bahadur Singh, District and Sessions Judge (Forests), Shimla and Sh. R.K. Tomar, Presiding Officer, Labour Court-cum-Industrial Tribunal, Shimla, members of the H.P. Judicial Service in the cadre of District Judges/Additional District Judges, H.P. with effect from 01-09-2021, 01-02-2022 and 01-04-2022, respectively and shall be called as “**Selection Grade District Judges.**”

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Dated, the 16th August, 2022

No. HHC/15-59/Jus/Acctts/2022.—It is hereby notified that pursuant to Notification No. K.13020/02/2022-US.II dated 12-08-2022, issued by the Government of India, Ministry of Law and Justice Department of Justice (Appointments Division), New Delhi, **Hon'ble Mr. Justice Sushil Kukreja** has assumed the charge of the office of the Judge of the High Court of Himachal Pradesh on 16-08-2022 (forenoon).

By order,
Sd/-
(Arvind Malhotra).
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Dated, the 16th August, 2022

No. HHC/15-60/Jus/Acctts/2022.— It is hereby notified that pursuant to Notification No. K.13020/02/2022-US.II dated 12-08-2022, issued by the Government of India, Ministry of Law and Justice Department of Justice (Appointments Division), New Delhi, **Hon'ble Mr. Justice Virender Singh** has assumed the charge of the office of the Judge of the High Court of Himachal Pradesh on 16-08-2022 (forenoon).

By order,
Sd/-
(Arvind Malhotra).
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Dated, the 02nd August, 2022

No. HHC/Admn.3(218)/86-I.—05 days commuted leave with effect from 19-07-2022 to 23-07-2022 with permission to suffix Sunday on 24-07-2022 is hereby sanctioned, *ex-post-facto*, in favour of Shri Dharam Pal Sharma, Assistant Registrar of this Registry.

Certified that Shri Dharam Pal Sharma has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Dharam Pal Sharma would have continued to officiate the same post of Assistant Registrar but for his proceeding on leave.

By order ,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA- 171 001

NOTIFICATION

Dated, the 02nd August, 2022

No. HHC/Estt.3(517)/2001.—05 days commuted leave *w.e.f.* 11-07-2022 to 15-07-2022 with permission to prefix second Saturday and Sunday on 9th & 10th July, 2022 is hereby sanctioned, *ex-post-facto*, in favour of Smt. Mamta Rao, Secretary of this Registry.

Certified that Smt. Mamta Rao has joined the same post and at the same station from where she had proceeded on leave after the expiry of the above leave period.

Certified that Smt. Mamta Rao would have continued to officiate the same post of Secretary but for her proceeding on leave.

By order ,
Sd/-
Registrar General.

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि० प्र०)

जगदेव दीन पुत्र मीर दीन, निवासी महाल हटली, मौजा ठेहड, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र नाम दुरुस्ती नाम महाल हटली, मौजा ठेहड, तह० नूरपुर, जिला कांगड़ा (हि० प्र०)।

नोटिस बनाम आम जनता।

प्रार्थी जगदेव दीन पुत्र मीर दीन, निवासी महाल हटली, मौजा ठेहड, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०) ने एक प्रार्थना—पत्र गुजारा है कि उसका नाम आधार कार्ड, परिवार रजिस्टर नकल व अन्य दस्तावेज में जगदेव दीन मीर दीन लिखा है, जोकि सही है। परन्तु राजस्व रिकार्ड हटली, मौजा ठेहड, तह०

नूरपुर में प्रार्थी का नाम जगूदीन पुत्र मीर उलदीन लिखा है, जोकि गलत है। जगूदीन पुत्र मीर उलदीन व जगदेव दीन पुत्र मीर दीन एक ही व्यक्ति के नाम हैं व नाम दुरुस्ती के आदेश जारी किए जाए।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के नाम की दुरुस्ती होने पर कोई आपत्ति हो तो वह एक महीने के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

अशोक कुमार पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र जन्म पंजीकरण ग्राम पंचायत भडवार, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थी अशोक कुमार पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है जिसमें निवेदन किया है कि उसकी जन्म तिथि 22-02-1978 है, का नाम अज्ञानतावश ग्राम पंचायत भडवार, तहसील नूरपुर में दर्ज नहीं हो पाया है। जिसके समर्थन में मुख्य चिकित्सा अधिकारी कांगड़ा स्थित धर्मशाला, हि0प्र0 की रिपोर्ट प्रार्थना—पत्र के साथ संलग्न है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के ग्राम पंचायत भडवार में जन्म पंजीकरण बारे कोई आपत्ति हो तो वह एक महीने के अन्दर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को उपरोक्त प्रार्थी के जन्म पंजीकरण पर आपत्ति नहीं है। अतः नियमानुसार जन्म पंजीकरण के आदेश जारी कर दिए जाएंगे।

आज दिनांक..... को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

नागदीन पुत्र मीर दीन, निवासी महाल हटली, मौजा ठेहड, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता प्रतिवादी।

प्रार्थना—पत्र नाम दुरुस्ती नाम महाल हटली, मौजा ठेहड, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थी नागदीन पुत्र मीर दीन, निवासी महाल हटली, मौजा ठेहड, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है कि उसका नाम आधार कार्ड, परिवार रजिस्टर नकल व अन्य दस्तावेज में नागदीन पुत्र मीर दीन लिखा है, जोकि सही है। परन्तु राजस्व रिकार्ड हटली, मौजा ठेहड, तह0 नूरपुर में प्रार्थी का नाम नागूदीन पुत्र मीर उलदीन लिखा है, जोकि गलत है। नागूदीन पुत्र मीर उलदीन व नागदीन पुत्र मीर दीन एक ही व्यक्ति के नाम है व नाम दुरुस्ती के आदेश जारी किए जाए।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के नाम की दुरुस्ती होने पर कोई आपत्ति हो तो वह एक महीने के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर कोई आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

नेक सिंह उपनाम नेक चन्द पुत्र श्री संसारो, निवासी महाल ठोहडा, मौजा ठोहडा भलूण, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता प्रतिवादी।

प्रार्थना—पत्र नाम दुरुस्ती नाम महाल ठोहडा, मौजा ठोहडा भलूण, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थी श्री नेक सिंह उपनाम नेक चन्द पुत्र श्री संसारो, निवासी महाल ठोहडा, मौजा ठोहडा भलूण, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है कि उसका नाम आधार कार्ड, परिवार

रजिस्टर नकल व अन्य दस्तावेज में नेक चन्द पुत्र श्री संसार सिंह लिखा है, जोकि सही है। परन्तु राजस्व रिकार्ड महाल ठोहडा, मौजा ठोहडा भलूण, तह0 नूरपुर में उसका नाम नेक सिंह पुत्र श्री संसारो लिखा है, जोकि गलत है। नेक सिंह पुत्र श्री संसारो व नेक चन्द पुत्र श्री संसार सिंह एक ही व्यक्ति के नाम है व नाम दुरुस्ती के आदेश जारी किए जाएं।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के नाम की दुरुस्ती होने पर कोई आपत्ति हो तो वह एक महीने के भीतर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को नाम दुरुस्ती पर कोई आपत्ति नहीं है। अतः नियमानुसार नाम दुरुस्ती के आदेश जारी कर दिए जाएंगे।

आज दिनांक को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

अमित शर्मा पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) प्रतिवादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र जन्म पंजीकरण ग्राम पंचायत भडवार, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थी अमित शर्मा पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है जिसमें निवेदन किया है कि उसकी जन्म तिथि 08—09—1982 है, का नाम अज्ञानतावश ग्राम पंचायत भडवार, तहसील नूरपुर में दर्ज नहीं हो पाया है। जिसके समर्थन में मुख्य चिकित्सा अधिकारी कांगड़ा स्थित धर्मशाला, हि0प्र0 की रिपोर्ट प्रार्थना—पत्र के साथ संलग्न है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के ग्राम पंचायत भडवार में जन्म पंजीकरण बारे कोई आपत्ति हो तो वह एक महीने के अन्दर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को उपरोक्त प्रार्थी के जन्म पंजीकरण पर आपत्ति नहीं है। अतः नियमानुसार जन्म पंजीकरण के आदेश जारी कर दिए जाएंगे।

आज दिनांकको मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

सविता देवी पुत्री श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादिया।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र जन्म पंजीकरण ग्राम पंचायत भडवार, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थिया सविता देवी पुत्री श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है जिसमें निवेदन किया है कि उसकी जन्म तिथि 12-06-1974 है, का नाम अज्ञानतावश ग्राम पंचायत भडवार, तहसील नूरपुर में दर्ज नहीं हो पाया है। जिसके समर्थन में मुख्य चिकित्सा अधिकारी कांगड़ा स्थित धर्मशाला, हि0प्र0 की रिपोर्ट प्रार्थना—पत्र के साथ संलग्न है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थिया के ग्राम पंचायत भडवार में जन्म पंजीकरण बारे कोई आपत्ति हो तो वह एक महीने के अन्दर इस न्यायालय में असालतन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को उपरोक्त प्रार्थिया के जन्म पंजीकरण पर आपत्ति नहीं है। अतः नियमानुसार जन्म पंजीकरण के आदेश जारी कर दिए जाएंगे।

आज दिनांक.....को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी, नूरपुर, जिला कांगड़ा (हि0 प्र0)

जगजीत राय पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

प्रार्थना—पत्र जन्म पंजीकरण ग्राम पंचायत भडवार, तह0 नूरपुर, जिला कांगड़ा (हि0 प्र0)।

नोटिस बनाम आम जनता।

प्रार्थी जगजीत राय पुत्र श्री नगीन चन्द, निवासी महाल व मौजा भडवार, तहसील नूरपुर, जिला कांगड़ा (हि0 प्र0) ने एक प्रार्थना—पत्र गुजारा है जिसमें निवेदन किया है कि उसकी जन्म तिथि 12-04-1973

है, का नाम अज्ञानतावश ग्राम पंचायत भडवार, तहसील नूरपुर में दर्ज नहीं हो पाया है। जिसके समर्थन में मुख्य चिकित्सा अधिकारी कांगड़ा स्थित धर्मशाला, हि0प्र0 की रिपोर्ट प्रार्थना-पत्र के साथ संलग्न है।

प्रतिवादी आम जनता को इस इशतहार राजपत्र द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी के ग्राम पंचायत भडवार में जन्म पंजीकरण बारे कोई आपत्ति हो तो वह एक महीने के अन्दर इस न्यायालय में असातन या वकालतन हाजिर होकर एतराज दायर कर सकता है अन्यथा यह समझा जाएगा कि किसी को उपरोक्त प्रार्थी के जन्म पंजीकरण पर आपत्ति नहीं है। अतः नियमानुसार जन्म पंजीकरण के आदेश जारी कर दिए जाएंगे।

आज दिनांकको मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं सहायक समाहर्ता, प्रथम श्रेणी,
नूरपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धीरा, जिला कांगड़ा (हि0 प्र0)

केस नं0 : 02/Teh/B/2022 तारीख दायरा : 21-02-2022

तारीख पेशी : 03-09-2022

किस्म मुकदमा : इन्द्राज जन्म तिथि

शीर्षक : रक्षा देवी पुत्री हुक्म चन्द, निवासी गांव अलसेहड़, डाकघर पनियाली, ग्राम पंचायत काहनफट, तहसील धीरा, जिला कांगड़ा, हि0 प्र0 प्रार्थिया।

बनाम

आम जनता

प्रत्यार्थी।

विषय.—प्रार्थना-पत्र अधीन धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

प्रार्थिया उपरोक्त ने इस न्यायालय में प्रार्थना-पत्र मय शपथ-पत्र इस आशय से पेश किया है कि उसका जन्म गांव अलसेहड़, डा0 पनियाली, ग्राम पंचायत काहनफट, तहसील धीरा, जिला कांगड़ा, हि0 प्र0 में दिनांक 20-04-1952 को हुआ है मगर अज्ञानतावश उसकी जन्म तिथि सम्बन्धित ग्राम पंचायत काहनफट के अभिलेख में दर्ज न है जिसे कि वह सम्बन्धित ग्राम पंचायत काहनफट के अभिलेख में दर्ज करवाना चाहती है।

अतः इस बारे इशतहार राजपत्र, हि0 प्र0 व मुस्त्री मुनादी द्वारा उपरोक्त प्रत्यार्थी व सर्वसाधारण को सूचित किया जाता है कि यदि किसी को उक्त जन्म पंजीकरण बारे कोई उजर या एतराज हो तो वह इस इशतहार/नोटिस के जारी होने की तिथि से एक माह के भीतर या दिनांक 03-09-2022 को प्रातः 10.30 बजे असातन या वकालतन अदालत में हाजिर आकर अपना उजर व एतराज पेश कर सकता है। इसके उपरान्त कोई भी उजर या एतराज काबिले समायत न होगा तथा आवेदिका की जन्म तिथि दिनांक 20-04-1952 को दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत काहनफट को पारित कर दिये जायेंगे।

आज दिनांक 30-07-2022 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
तहसील धीरा, जिला कांगड़ा, हि0 प्र0।

समक्ष श्री रवीश चन्देल, सहायक समाहर्ता प्रथम वर्ग, तहसील निहरी, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 1/2022

तारीख मजरुआ : 18-04-2022

आगामी पेशी : 30-08-2022

प्रार्थी श्री ठाकर सिंह पुत्र श्री राम सिंह, निवासी गांव द्रौण, डाकघर झुन्गी, तहसील निहरी, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

प्रत्यार्थी।

प्रार्थना-पत्र नाम दुरुस्ती।

प्रार्थी श्री ठाकर सिंह पुत्र श्री राम सिंह, निवासी गांव द्रौण, डाकघर झुन्गी, तहसील निहरी, जिला मण्डी (हि0 प्र0) ने इस अदालत में एक प्रार्थना-पत्र दायर किया है कि उसका नाम राजस्व अभिलेख पटवार वृत्त झुन्गी के महाल मत्योग में ठाकर दास दर्ज है, जबकि उसका सही नाम ठाकर सिंह है, लिहाजा इसे दुरुस्त करके ठाकर दास उर्फ ठाकर सिंह किया जाए। आवेदन-पत्र की पुष्टि में प्रार्थी द्वारा नियमानुसार अभिलेखीय साक्ष्य प्रस्तुत किए गए हैं।

अतः इस इशतहार के माध्यम से आम जनता तथा सगे सम्बन्धियों को सूचित किया जाता है कि अगर उपरोक्त नाम दुरुस्ती बारे किसी भी व्यक्ति विशेष व सगे सम्बन्धियों को कोई भी उजर/एतराज हो तो दिनांक पेशी 30-08-2022 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन अपना एतराज अधोहस्ताक्षरी के समक्ष उपस्थित होकर या लिखित रूप में पेश कर सकता है। इस तिथि तक कोई भी एतराज पेश न होने की सूरत में नियमानुसार एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती के आदेश पारित कर दिये जावेंगे व उसके उपरान्त कोई भी एतराज न सुना जाएगा।

आज दिनांक 26-07-2022 को मेरे हस्ताक्षर व मोहर सहित जारी हुआ।

मोहर।

हस्ताक्षरित/—

सहायक समाहर्ता प्रथम श्रेणी,
तहसील निहरी, जिला मण्डी (हि0 प्र0)।

**समक्ष नायब तहसीलदार एवम् सहायक समाहर्ता द्वितीय श्रेणी, लडभडोल,
जिला मण्डी (हि0 प्र0)**

मिसल नम्बर : 35/2022

तारीख मरजुआ : 19-07-2022

तारीख पेशी : 30-08-2022

श्री रवि कुमार पुत्र श्री सिमत राम पुत्र धारी, निवासी गांव झुलगण, डाकघर खददर, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री रवि कुमार पुत्र श्री सिमत राम पुत्र धारी, निवासी गांव झुलगण, डाकघर खददर, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) ने इस अदालत में दिनांक 19-07-2022

को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी के पिता का वास्तविक नाम सिमत राम है परन्तु प्रार्थी के पिता का नाम राजस्व अभिलेख मुहाल झुलगण में सिमत ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने पिता के नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस राजपत्र इश्तहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल झुलगण में प्रार्थी के पिता का नाम सिमत के स्थान पर सिमत राम पुत्र धारी, निवासी गांव झुलगण, डाकघर खददर, तहसील लडभडोल, जिला मण्डी, हि0 प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 23-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/-
सहायक समाहर्ता द्वितीय श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

समक्ष नायब तहसीलदार एवम् सहायक समाहर्ता, द्वितीय श्रेणी, लडभडोल,
जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 34/2022

तारीख मरजुआ : 19-07-2022

तारीख पेशी : 30-08-2022

श्री रमेश चन्द पुत्र श्री अमर सिंह पुत्र बीरबल, निवासी गांव लाहला, डाकघर कुदैल, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) प्राथी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री रमेश चन्द पुत्र श्री अमर सिंह पुत्र बीरबल, निवासी गांव लाहला, डाकघर कुदैल, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) ने इस अदालत में दिनांक 19-07-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी का वास्तविक नाम रमेश चन्द है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल लाहला में रमेश कुमार ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने पिता के नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस राजपत्र इश्तहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल लाहला में प्रार्थी का नाम रमेश कुमार के स्थान पर रमेश चन्द पुत्र अमर सिंह पुत्र बीरबल, निवासी गांव लाहला, डाकघर कुदैल, तहसील लडभडोल, जिला मण्डी, हि0 प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को

10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 23-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
लडभड़ोल, जिला मण्डी (हि0 प्र0)।

समक्ष तहसीलदार एवम् सहायक समाहर्ता, प्रथम श्रेणी, लडभड़ोल, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 87/2022

तारीख मरजुआ : 26-07-2022

तारीख पेशी : 30-08-2022

श्री रमेश चन्द पुत्र स्व0 श्री सनाहकू राम पुत्र शेरा, निवासी गांव द्रोव, डाकघर बल्हक्वार, तहसील लडभड़ोल, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री रमेश चन्द पुत्र स्व0 श्री सनाहकू राम पुत्र शेरा, निवासी गांव द्रोव, डाकघर बल्हक्वार, तहसील लडभड़ोल, जिला मण्डी (हि0 प्र0) ने इस अदालत में दिनांक 26-07-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी के पिता का वास्तविक नाम सनाहकू राम है परन्तु प्रार्थी के पिता का नाम राजस्व अभिलेख मुहाल द्रोव में होसनाकू ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 व शिक्षा प्रमाण-पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस राजपत्र इश्तहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल द्रोव में प्रार्थी के पिता का नाम होसनामू के स्थान पर सनाहकू राम पुत्र शेरा, निवासी गांव द्रोव, डाकघर बल्हक्वार, तहसील लडभड़ोल, जिला मण्डी, हि0 प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 27-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
लडभड़ोल, जिला मण्डी (हि0 प्र0)।

समक्ष मेघना गोस्वामी, तहसीलदार एवम् सहायक समाहर्ता, प्रथम श्रेणी, लडभडोल, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 84/2022

तारीख मरजुआ : 01-07-2022

तारीख पेशी : 30-08-2022

श्री ठाकुर सिंह पुत्र साजू पुत्र लेघा, निवासी गांव व डाकघर कोलंग, तहसील लडभडोल, जिला मण्डी (हि0प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री ठाकुर सिंह पुत्र साजू पुत्र लेघा, निवासी गांव व डाकघर कोलंग, तहसील लडभडोल, जिला मण्डी (हि0प्र0) ने इस अदालत में दिनांक 29-06-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी का वास्तविक नाम ठाकुर सिंह है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल कोलंग में ठाकुर सिंह व मुहाल खददर में ठाकुर दास ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 व शिक्षा प्रमाण-पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस इशतहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल कोलंग में प्रार्थी का नाम ठाकुर सिंह के स्थान पर ठाकुर सिंह व मुहाल खददर में ठाकुर दास के स्थान पर ठाकुर सिंह पुत्र साजू पुत्र लेघा, निवासी गांव व डाकघर कोलंग, तहसील लडभडोल, जिला मण्डी, हि0प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इशतहार आज दिनांक 27-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/-
सहायक समाहर्ता प्रथम श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

समक्ष मेघना गोस्वामी, तहसीलदार एवम् सहायक समाहर्ता, प्रथम श्रेणी, लडभडोल, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 85/2022

तारीख मरजुआ : 06-07-2022

तारीख पेशी : 30-08-2022

श्री दीपक शर्मा पुत्र मनी राम पुत्र रणजीत, निवासी गांव भडोल, डाकघर व तहसील लडभडोल, जिला मण्डी (हि0प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री दीपक शर्मा पुत्र मनी राम पुत्र रणजीत, निवासी गांव भडोल, डाकघर व तहसील लडभडोल, जिला मण्डी (हि0प्र0) ने इस अदालत में दिनांक 06-07-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी का वास्तविक नाम दीपक शर्मा है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल भडोल में दीपक ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 व शिक्षा प्रमाण-पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस इशतहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल भडोल में प्रार्थी का नाम दीपक के स्थान पर दीपक शर्मा पुत्र मनी राम पुत्र रणजीत, निवासी गांव भडोल, डाकघर व तहसील लडभडोल, जिला मण्डी, हि0प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इशतहार आज दिनांक 27-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

समक्ष तहसीलदार एवम् सहायक समाहर्ता, प्रथम श्रेणी, लडभडोल, जिला मण्डी (हि0 प्र0)

मिसल नम्बर : 86/2022

तारीख मरजुआ : 25-07-2022

तारीख पेशी : 30-08-2022

श्री अभिषेक ठाकुर पुत्र श्री धर्मपाल पुत्र टेकू निवासी गांव रकतल, डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती।

उपरोक्त उनवानवाला मुकद्दमा में प्रार्थी श्री अभिषेक ठाकुर पुत्र श्री धर्मपाल पुत्र टेकू निवासी गांव रकतल, डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) ने इस अदालत में दिनांक 25-07-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी का वास्तविक नाम अभिषेक ठाकुर है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल रकतल में अभिषेक ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, आधार कार्ड, परिवार नकल भाग-1 व शिक्षा प्रमाण-पत्र साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने नाम की दुरुस्ती करने के आदेश चाहे हैं।

अतः इस राजपत्र इश्तहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल रकतल में प्रार्थी का नाम अभिषेक के स्थान पर अभिषेक ठाकुर पुत्र धर्मपाल पुत्र टेकू, निवासी गांव रकतल, डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी, हि0 प्र0 दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 30-08-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 27-07-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

अज कार्यालय सहायक समाहर्ता, द्वितीय श्रेणी, औट, जिला मण्डी (हि0 प्र0)

मिसल नं0 : 21/2022

आगामी पेशी : 05-09-2022

श्री राकेश कुमार उर्फ रिंकू पुत्र श्री मणी, निवासी गांव जला, मुहाल काशना, डाकखाना थलौट, तहसील औट, जिला मण्डी (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—राजस्व रिकार्ड में नाम दुरुस्त करने बारे।

प्रार्थी श्री राकेश कुमार उर्फ रिंकू पुत्र श्री मणी, निवासी गांव जला, मुहाल काशना, डाकखाना थलौट, तहसील औट, जिला मण्डी (हि0 प्र0) ने दिनांक 30-07-2022 को इस अदालत में आवेदन-पत्र गुजारा है कि उसका नाम तहसील औट के राजस्व अभिलेख मुहाल काशना व खीणी में 'रिंकू' गलती से दर्ज हुआ है। जबकि पंचायत व अन्य रिकार्ड में उसका सही नाम 'राकेश कुमार' दर्ज है। प्रार्थी ने इस अदालत से प्रार्थना की है कि तहसील औट, जिला मण्डी के तमाम भू-राजस्व अभिलेख में उसका नाम 'रिंकू' की जगह 'राकेश कुमार उर्फ रिंकू' दर्ज करने हेतु आदेश पारित किए जाएं।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त प्रार्थी का नाम राजस्व रिकार्ड में दुरुस्त करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 05-09-2022 को 10.00 बजे तक कार्यालय हाजिर होकर अपना उजर/एतराज पेश कर सकता है। व इस सूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर उचित आदेश पारित कर दिये जाएंगे।

आज दिनांक 30-07-2022 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
तहसील औट, जिला मण्डी (हि0 प्र0)।

